Supreme Court, U.S.
FILED
MAY 2 - 2016
OFFICE OF THE CLERK

No. 14-9496

IN THE

Supreme Court of the United States

ELIJAH MANUEL,

Petitioner,

v.

CITY OF JOLIET, ILLINOIS, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED APRIL 27, 2015
CERTIORARI GRANTED JANUARY 15, 2016

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Civil Docket for Case No: 1:13-CV-03022

ELIJAH MANUEL,

v.

CITY OF JOLIET, ILLINOIS, ET AL.,

DOCKET ENTRIES

DATE	NO.	PROCEEDINGS
4/22/2013	1	RECEIVED Complaint and two copies by Elijah Manuel; (Exhibits). (Envelope not postmarked) (mjc,) (Entered: 04/23/2013)
4/22/2013	2	CIVIL Cover Sheet. (mjc,) (Entered: 04/23/2013)
4/22/2013	3	MOTION by plaintiff Elijah Manuel for leave to proceed in forma pauperis; (Exhibits). (mjc,) (Entered: 04/23/2013)
4/22/2013	4	PETITION by plaintiff Elijah Manuel for writ of habeas corpus. (mjc,) (Entered: 04/23/2013)
4/24/2013	5	ENTER MEMORANDUM Order Signed by the Honorable Milton I. Shadur on 4/24/2013. Mailed notice by judge's staff. (srb,) (Entered: 04/25/2013)

DATE	NO.	PROCEEDINGS
5/7/2013	6	MINUTE entry before Honorable Milton I. Shadur: Pursuant to this Court's memorandum order, entered on 4/24/2013, plaintiff's motion for leave to proceed in forma pauperis 3 is granted. Plaintiff's petition for writ of habeas corpus Mailed notice (mjc,) (Entered: 05/09/2013)
5/22/2013	7	MOTION by plaintiff Elijah Manuel for attorney representation; (Exhibits). (mjc,) (Entered: 05/24/2013)
5/22/2013	8	LETTER from Elijah Manuel dated 5/17/13. (mjc,) (Entered: 05/24/2013)
5/22/2013	9	MOTION by plaintiff Elijah Manuel for leave to proceed in forma pauperis; (Exhibits). (mjc,) (Entered: 05/24/2013)
5/31/2013	10	MEMORANDUM ORDER Signed by the Honorable Milton I. Shadur on 5/31/2013: Mailed notice (tlp,) (Entered: 05/31/2013)
5/31/2013	11	MINUTE entry before Honorable Milton I. Shadur: In that respect this Court's April 24, 2013 memorandum order (issued just two days after Manuel filed this lawsuit) has already granted Manuel's in forma pauperis status under the terms that apply to persons in custody (see 28 U.S.C. §1915). Accordingly that part of Manuel's current request is simply 9 denied as moot. Motion for

DATE	NO.	PROCEEDINGS
		appointment of counsel 7 is granted. Order appointment of Stanley B. Eisenhammer of the firm Hodges, Loizzi, Eisenhammer, Rodick & Kohn, 3030 Salt Creek Lane, Suite 202, Arlington Heights, Il. 6005 to represent the plaintiff in this cause. Attorney Stanley Bert Eisenhammer for Elijah Manuel added. Mailed notice (mjc,) (Entered: 06/03/2013)
6/14/2013	12	ATTORNEY Appearance for Plaintiff Elijah Manuel by John L DiJohn (DiJohn, John) (Entered: 06/14/2013)
6/14/2013	13	ATTORNEY Appearance for Plaintiff Elijah Manuel by Pamela E. Swanson (Swanson, Pamela) (Entered: 06/14/2013)
8/23/2013	14	NOTICE by Elijah Manuel of Change of Address. (mjc,) (Entered: 08/28/2013)
9/20/2013	15	*First* AMENDED complaint by Elijah Manuel against Elijah Manuel (Eisenhammer, Stanley) (Entered: 09/20/2013)
9/20/2013	16	NOTICE by Elijah Manuel re amended complaint 15 (Eisenhammer, Stanley) (Entered: 09/20/2013)
9/23/2013	17	MINUTE entry before Honorable Milton I. Shadur: Initial status hearing set for 10/2/2013 at 9:15 A.M. in courtroom 2303. Mailed notice by judge's staff. (srb,) (Entered: 09/23/2013)

DATE	NO.	PROCEEDINGS
10/2/2013	18	MINUTE entry before Honorable Milton I. Shadur: Status hearing held on 10/2/2013 and continued to 1/13/2014 at 9:00 a.m. Mailed notice by judge's staff. (srb,) (Entered: 10/02/2013)
10/7/2013	19	ATTORNEY Appearance for Defendants Unknown Officers of the Will County Sheriff's Office, Will County by Julie M Koerner (Koerner, Julie) (Entered: 10/07/2013)
10/7/2013	20	ATTORNEY Appearance for Defendants Unknown Officers of the Will County Sheriff's Office, Will County by Bhairav Radia (Radia, Bhairav) (Entered: 10/07/2013)
10/9/2013	21	NOTICE by Pamela E. Swanson of Change of Address *Attorney Name only* (Swanson, Pamela) (Entered: 10/09/2013)
10/9/2013	22	WAIVER OF SERVICE returned executed by Elijah Manuel. Will County waiver sent on 10/1/2013, answer due 12/2/2013. (Swanson, Pamela) (Entered: 10/09/2013)
10/9/2013	23	WAIVER OF SERVICE returned executed by Elijah Manuel. Unknown Officers of the Will County Sheriff's Office waiver sent on 10/1/2013, answer due 12/2/2013. (Swanson, Pamela) (Entered: 10/09/2013)

DATE	NO.	PROCEEDINGS
10/22/2013	24	ATTORNEY Appearance for Defendants Aaron Bandy, Scott P. Cammack, City of Joliet, Thomas Conroy, Jeffrey German, Terrence J. Gruber, Jeffrey Kneller, Joseph Rosado, John Stefanski by John Patrick Wise (Wise, John) (Entered: 10/22/2013)
10/22/2013	25	ATTORNEY Appearance for Defendants Aaron Bandy, Scott P Cammack, City of Joliet, Thomas Conroy, Jeffrey German, Terrence J. Gruber, Jeffrey Kneller, Joseph Rosado, John Stefanski by Gregory Smith (Smith, Gregory) (Entered: 10/22/2013)
10/22/2013	26	ATTORNEY Appearance for Defendants Aaron Bandy, Scott P. Cammack, City of Joliet, Thomas Conroy, Jeffrey German, Terrence J. Gruber, Jeffrey Kneller, Joseph Rosado, John Stefanski by Jeffrey Scott Plyman (Plyman, Jeffrey) (Entered: 10/22/2013)
10/22/2013	27	ATTORNEY Appearance for Defendants Aaron Bandy, Scott P Cammack, City of Joliet, Thomas Conroy, Jeffrey German, Terrence J. Gruber, Jeffrey Kneller, Joseph Rosado, John Stefanski by Mary Josephine Kucharz (Kucharz, Mary) (Entered: 10/22/2013)
12/2/2013	28	MOTION by Defendants Unknown Officers of the Will County Sheriff's Office, Will County for extension of

DATE	NO.	PROCEEDINGS
		time to file answer regarding amended complaint 15 *or Otherwise Plead* (Koerner, Julie) (Entered: 12/02/2013)
12/2/2013	29	NOTICE of Motion by Julie M Koerner for presentment of motion for extension of time to file answer, motion for relief 28 before Honorable Milton I. Shadur on 12/10/2013 at 09:15 AM. (Koerner, Julie) (Entered: 12/02/2013)
12/4/2013	30	MOTION by Defendants Jeffrey Kneller, City of Joliet, Terrence J. Gruber, Joseph Rosado, John Stefanski, Aaron Bandy, Jeffrey German, Thomas Conroy, Scott P. Cammack to dismiss *First Amended Complaint* (Attachments: # 1 Memorandum) (Wise, John) (Entered: 12/04/2013)
12/4/2013	31	NOTICE of Motion by John Patrick Wise for presentment of motion to dismiss, 30 before Honorable Milton I. Shadur on 12/10/2013 at 09:15 AM. (Wise, John) (Entered: 12/04/2013)
12/9/2013	32	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM (Koerner, Julie) (Entered: 12/09/2013)
12/9/2013	33	MEMORANDUM by Unknown Officers of the Will County Sheriff's Office, Will County in support of Motion to Dismiss for Failure to State a Claim (Koerner, Julie) (Entered: 12/09/2013)

DATE	NO.	PROCEEDINGS
12/9/2013	34	NOTICE of Motion by Julie M Koerner for presentment of Motion to Dismiss for Failure to State a Claim 32 before Honorable Milton I. Shadur on 12/19/2013 at 09:15 AM. (Koerner, Julie) (Entered: 12/09/2013)
12/10/2013	35	MINUTE entry before the Honorable Milton I. Shadur: Motion hearing held on 12/10/2013. Defendants Will County, Illinois and Unknown Officers of the Will County Sheriff's Office's motion for extension of time to answer or otherwise plead 28 to plaintiff's first amended complaint is granted to and including 12/9/2013. Defendants' motions to dismiss 30, 32 are entered and continued. Plaintiff is ordered to file a response to the motions to dismiss on or before 1/9/2014. No appearance necessary on 12/19/2013. Status hearing set for 1/13/2014 at 9:00 a.m. to stand. Mailed notice by judge's staff. (srb,) (Entered: 12/10/2013)
1/3/2014	36	ATTORNEY Appearance for Defendants Unknown Officers of the Will County Sheriff's Office, Will County by Katharine P.a. Smeenk (Smeenk, Katharine) (Entered: 01/03/2014)
1/8/2014	37	RESPONSE by Elijah Manuel in Opposition to MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM 32, MOTION by Defendants Jeffrey Kneller, City of Joliet, Terrence J.

DATE	NO.	PROCEEDINGS
		Gruber, Joseph Rosado, John Stefanski, Aaron Bandy, Jeffrey German, Thomas Conroy, Scott P. Cammack to dismiss *First Amended Complaint* 30 (Eisenhammer, Stanley) (Entered: 01/08/2014)
1/8/2014	38	NOTICE by Elijah Manuel re response in opposition to motion, 37 *Notice of Filing* (Eisenhammer, Stanley) (Entered: 01/08/2014)
1/13/2014	39	MINUTE entry before the Honorable Milton I. Shadur: Status hearing held on 1/13/2014. Will County defendants' Rule 12(b)(6) motion to be dismissed 32 from plaintiff's first amended complaint is granted for the reasons stated in open court. City of Joliet and other named defendants' motion to be dismissed from the first amended complaint 30 is continued to 1/16/2014 at 9:30 a.m. Mailed notice by judge's staff. (srb,) (Entered: 01/14/2014)
1/16/2014	40	MINUTE entry before the Honorable Milton I. Shadur: Motion hearing held on 1/16/2014. Motion by defendants Kneller, City of Joliet, Gruber, Rosado, Stefanski, Bandy, German, Conroy, and Cammack to dismiss First Amended Complaint 30 is continued. Plaintiff is ordered to file a more properly focused response to the motion on or before 2/7/2014. Status hearing set for 2/13/2014 at 8:45 a.m.

DATE	NO.	PROCEEDINGS
		Mailed notice by judge's staff. (srb,) (Entered: 01/16/2014)
2/7/2014	41	RESPONSE by Elijah Manuel in Opposition to MOTION by Defendants Jeffrey Kneller, City of Joliet, Terrence J. Gruber, Joseph Rosado, John Stefanski, Aaron Bandy, Jeffrey German, Thomas Conroy, Scott P. Cammack to dismiss *First Amended Complaint* 30 *Modified Response* (Attachments: # 1 Exhibit Exhibits) (Eisenhammer, Stanley) (Entered: 02/07/2014)
2/7/2014	42	NOTICE by Elijah Manuel re response in opposition to motion, 41 *Notice of Filing* (Eisenhammer, Stanley) (Entered: 02/07/2014)
2/12/2014	43	MINUTE entry before the Honorable Milton I. Shadur: Enter Memorandum Order. Accordingly both Rule 12(b)(6) motions to dismiss 30 are granted. And (1) because the limitations bar erected by Section 1983 cannot be overcome by a nonviable Illinois-based federal malicious prosecution claim and (2) because the most recent response from Manuel's counsel has not suggested any other tenable basis for the survival of his claims, this action is dismissed as well. Civil case terminated. Mailed notice by judge's staff. (srb,) (Entered: 02/12/2014)

DATE	NO.	PROCEEDINGS
2/12/2014	44	MEMORANDUM Order Signed by the Honorable Milton I. Shadur on 2/12/2014. Mailed notice by judge's staff. (srb,) (Entered: 02/12/2014)
3/14/2014	45	MOTION by Plaintiff Elijah Manuel for leave to appeal in forma pauperis (Attachments: # 1 Affidavit Exhibit A- Affidavit)(Eisenhammer, Stanley) (Entered: 03/14/2014)
3/14/2014	46	NOTICE of Motion by Stanley Bert Eisenhammer for presentment of motion for leave to appeal in forma pauperis 45 before Honorable Milton I. Shadur on 3/18/2014 at 09:15 AM. (Eisenhammer, Stanley) (Entered: 03/14/2014)
3/14/2014	47	NOTICE of appeal by Elijah Manuel regarding orders 44, 43 (Eisenhammer, Stanley) (Entered: 03/14/2014)
3/14/2014	48	DOCKETING Statement by Elijah Manuel regarding notice of appeal 47 (Eisenhammer, Stanley) (Entered: 03/14/2014)
3/17/2014	53	MOTION by Plaintiff Elijah Manuel for leave to appeal in forma pauperis. (Exhibits) (ea,) (Entered: 03/19/2014)
3/18/2014	49	MINUTE entry before the Honorable Milton I. Shadur: Motion hearing held on 3/18/2014. Enter Memorandum Order. Plaintiff's motion for leave to appeal in forma pauperis 45 is referred to the Court of Appeals with a request

DATE	NO.	PROCEEDINGS
		for its decision. Mailed notice by judge's staff. (srb,) (Entered: 03/18/2014)
3/18/2014	50	MEMORANDUM Order Signed by the Honorable Milton I. Shadur on 3/18/2014. Mailed notice by judge's staff. (srb,) (Entered: 03/18/2014)
3/19/2014	51	NOTICE of Appeal Due letter sent to counsel of record regarding notice of appeal 47. (smm) (Entered: 03/19/2014)
3/19/2014	52	TRANSMITTED to the 7th Circuit the short record on notice of appeal 47. Notified counsel (smm) (Entered: 03/19/2014)
3/19/2014	54	ACKNOWLEDGMENT of receipt of short record on notice of appeal 47; USCA Case No. 14-1581. (ea,) (Entered: 03/19/2014)
3/19/2014	55	CIRCUIT Rule 3(b) Notice. (ea,) (Entered: 03/19/2014)
3/20/2014	56	ORDER dated 3/20/2014 from the Seventh Circuit regarding notice of appeal 47; Appellate case no. : 14-1581. The appellant filed a motion for leave to appeal in forma pauperis with the district court, and that court referred the matter to this court for decision. Federal Rule of Appellate Procedure 24(a)(1) requires a party who desires to appeal in forma pauperis to first file a motion in the district court. If the district court grants the motion, then the party may proceed on appeal

DATE	NO.	PROCEEDINGS
		in forma pauperis. Fed. R. App. P. 24(a)(2). If it denies the motion, the district court must state its reasons in writing and the party may renew the motion with this court. Fed. R. App. P. 24(a)(2); 24(a)(5). Because Federal Rule of Appellate Procedure 24 requires the district court to consider the motion in the first instance, it is requested that the district court consider the in forma pauperis motion filed before it on the merits. (ea,) (Entered: 03/21/2014)
3/20/2014	58	MOTION by Plaintiff Elijah Manuel for leave to appeal in forma pauperis. (Exhibits)(ea,) (Entered: 03/25/2014)
3/21/2014	57	MEMORANDUM by Elijah Manuel in support of motion for leave to appeal in forma pauperis 45 (Eisenhammer, Stanley) (Entered: 03/21/2014)
3/26/2014	59	ENTER MEMORANDUM Order Signed by the Honorable Milton I. Shadur on 3/26/2014. Mailed notice by judge's staff. (srb,) (Entered: 03/26/2014)
3/31/2014	60	MEMORANDUM ORDER, Signed by the Honorable Milton I. Shadur on 3/31/2014. (ea,) (Entered: 04/01/2014)
4/4/2014	61	TRANSMITTED to the USCA for the 7th Circuit the long record on appeal 47 (USCA no. 14-01581). (et,) (Entered: 04/04/2014)

DATE	NO.	PROCEEDINGS
4/15/2014	62	SEVENTH CIRCUIT transcript information sheet by Elijah Manuel (Eisenhammer, Stanley) (Entered: 04/15/2014)
4/30/2014	63	MINUTE entry before the Honorable Milton I. Shadur: Pursuant to the orders of March 26 and 31, 2014, plaintiff's motions for leave to appeal in forma pauperis 45, 53 and 58 are granted. Mailed notice by judge's staff. (srb,) (Entered: 04/30/2014)
5/12/2014	64	ORDER: Pursuant to the memorandum order of March 31, 2014, the Big Muddy trust fund officer is ordered to collect that amount from Manuel's trust fund account there and to pay it directly to the Clerk of Court ("Clerk"): Office of the Clerk, United States District Court, 219 South Dearborn Street, Chicago, IL 60604, Attention: Fiscal Department. After such payment, the trust fundofficer at Big Muddy (or at any other correctional facility where Manuel may hereafter be confined) is authorized to collect monthly payments from his trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments collected from the trust fund account shall be forwarded to the Clerk each time the amount in the account exceeds $10 until the full $350 filing fee is paid.

DATE	NO.	PROCEEDINGS
		Both the initial payment and all future payments shall clearly identify Manuel's name and the 13 C 3022 case number assigned to this action. The Clerk shall send a copy of the memorandum order 60 to the Big Muddy trust fund officer. Signed by the Honorable Milton I. Shadur on 5/12/2014. Mailed notice(mjc,)
5/13/2014		MAILED a copy of the memorandum (Entered: 05/13/2014)
5/30/2014	67	MOTION by Plaintiff Elijah Manuel to clarify */correct March 31, 2014, Memo Order to Reflect Proper Total Appellate Court Docketing Fee* (Simaga, Pamela) (Entered: 05/30/2014)
5/30/2014	68	NOTICE of Motion by Pamela E. Simaga for presentment of motion to clarify 67 before Honorable Milton I. Shadur on 6/9/2014 at 09:15 AM. (Simaga, Pamela) (Entered: 05/30/2014)
6/9/2014	69	MINUTE entry before the Honorable Milton I. Shadur: Motion hearing held on 6/9/14. MOTION by Plaintiff Elijah Manuel to clarify /correct March 31, 2014, Memo Order 60 to Reflect Proper Total Appellate Court Docketing Fee 67 is granted. The record is modified to show the proper total amount for the Appellate Court filing and docketing fee is $505. Mailed notice (tlp,) (Entered: 06/09/2014)

DATE	NO.	PROCEEDINGS
12/15/2014	76	NOTICE of Correction regarding 73 (ea,) (Entered: 12/15/2014)
2/19/2015	79	LETTER from the Seventh Circuit regarding the record on appeal in USCA no. 14-1581; no record to return. (ks,) (Entered: 02/20/2015)
2/19/2015	80	MANDATE of USCA dated 1/28/2015 regarding notice of appeal 47; USCA No. 14-1581. The Judgment of the District Court is AFFIRMED, with costs, in accordance with the decision of this court entered on this date. (ks,) (Entered: 02/20/2015)
2/19/2015	81	OPINION from the USCA for the Seventh Circuit; Argued 12/16/2014; Decided 1/28/2015 in USCA case no. 14-1581. (ks,) (Entered: 02/20/2015)
12/1/2015	88	MOTION by Defendants Aaron Bandy, Scott P. Cammack, City of Joliet, Thomas Conroy, Jeffrey German, Terrence J. Gruber, Jeffrey Kneller, Joseph Rosado, John Stefanski to withdraw (Wise, John) (Entered: 12/01/2015)
12/1/2015	89	NOTICE of Motion by John Patrick Wise for presentment of motion to withdraw 88 before Honorable Milton I. Shadur on 12/8/2015 at 09:15 AM. (Wise, John) (Entered: 12/01/2015)
12/8/2015	90	MINUTE entry before the Honorable Milton I. Shadur: Motion hearing held. Motion of John Patrick Wise to

DATE	NO.	PROCEEDINGS
		withdraw as one of the attorneys for the City of Joliet and the individual Joliet Defendants 88 is granted. Mailed notice (clw,) (Entered: 12/08/2015)

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Civil Docket For Case No: 14-01581

ELIJAH MANUEL,

v.

CITY OF JOLIET, ILLINOIS, ET AL.,

DOCKET ENTRIES

DATE	NO.	DOCKET TEXT
3/19/2014	1	State prisoner's civil rights case docketed. IT IS ORDERED that this appeal is subject to the Prison Litigation Reform Act. Proceedings are SUSPENDED pending notification by the district court that any necessary fee has been assessed, and if assessed, paid. PLRA IFP pending in the Appellate Court. Docketing statement filed. Transcript information sheet due by 04/02/2014. [1] [6560851] [14-1581] (AD)
3/19/2014		THIS CAUSE CONSISTS OF MORE THAN 5 PARTIES FOR EITHER SIDE. The following are those parties to this cause as reflected on the District Court docket, yet are not reflected on the Appellate docket/caption for administrative purposes: APPELLEES:

DATE	NO.	DOCKET TEXT
		Aaron Bandy, Jeffrey German, John Stefanski and Jeffrey Kneller. [6560855-2] [6560855] [14-1581] (AD)
3/19/2014	2	Motion filed by Appellant Elijah Manuel to proceed on appeal in forma pauperis. [2] [6560857] [14-1581] (AD)
3/20/2014	3	ORDER: The appellant filed a motion for leave to appeal in forma pauperis with the district court, and that court referred the matter to this court for decision. Federal Rule of Appellate Procedure 24(a)(1) requires a party who desires to appeal in forma pauperis to first file a motion in the district court. If the district court grants the motion, then the party may proceed on appeal in forma pauperis. Fed. R. App. P. 24(a)(2). If it denies the motion, the district court must state its reasons in writing and the party may renew the motion with this court. Fed. R. App. P. 24(a)(2); 24(a)(5). Because Federal Rule of Appellate Procedure 24 requires the district court to consider the motion in the first instance, it is requested that the district court consider the in forma pauperis motion filed before it on the merits. [3] [6561214] JKL [14-1581] (ER)
4/1/2014	4	Filed District Court order GRANTING Appellant Elijah Manuel leave to proceed on appeal in forma pauperis. Date IFP granted: 03/31/2014. District

DATE	NO.	DOCKET TEXT
		Court has assessed a $14.95 initial partial filing fee. [4] [6563798] PLRA initial partial filing fee due by 05/01/2014. [14-1581] (DS)
4/8/2014	5	Original record on appeal filed electronically. Contents of record: 1 vol. of pleadings. [5] [6565564] [14-1581] (SP)
4/15/2014	6	Filed Seventh Circuit Transcript Information Sheet by Appellant Elijah Manuel. [6] [6568102] [14-1581] (Eisenhammer, Stanley)
4/15/2014	7	Disclosure Statement filed by Attorney Eisenhammer, Stanley B. for Appellant Elijah Manuel. [7] [6568123] (L-Yes; E-Yes; R-No) [14-1581] (Eisenhammer, Stanley)
4/30/2014	8	Motion filed by Appellant Elijah Manuel to extend time to file payment of filing fee. [8] [6572218] [14-1581] (Eisenhammer, Stanley)
5/1/2014	9	ORDER issued GRANTING motion to extension of time to pay filing fee. [8] The appellant shall pay the required initial partial filing fee of $14.95 by May 15, 2014. [9] [6572331] JKL [14-1581] (AD)
5/27/2014	10	***PRISON LITIGATION REFORM ACT PARTIAL FILING FEE. Received: $14.95 from Appellant Elijah Manuel on 05/14/2014. [10] [6578499] [14-1581] (EF)

DATE	NO.	DOCKET TEXT
5/27/2014	11	***PRISON LITIGATION REFORM ACT PARTIALFILING FEE. Received: $.06 from Appellant Elijah Manuel on 05/16/2014. [11] [6578501] [14-1581] (EF)
5/28/2014	12	ORDER: The District Court GRANTED the appellant leave to proceed on appeal in forma pauperis and has now received the initial partial filing fee. Briefing will proceed as follows: Appellant's brief due on or before 06/27/2014 for Elijah Manuel. Appellee's brief due on or before 07/28/2014 for Scott P Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. Appellant's reply brief, if any, is due on or before 08/11/2014 for Appellant Elijah Manuel. [12] [6578616] [14-1581] (JK)
6/23/2014	13	Motion filed by Appellant Elijah Manuel to correct briefing order to list all appellees. [13] [6585032] [14-1581] (Eisenhammer, Stanley)
6/25/2014	14	ORDER re: Motion to correct May 28, 2014, briefing order to list all appellees, filed on 6/23/14. A review of the court's docket indicates that Aaron Bandy, Jeffrey German, John Stefanski and Jeffrey Kneller are appellees in this appeal but are not listed on the court's docket for administrative purposes. This court's briefing order dated May 28, 2014, applies to all the

DATE	NO.	DOCKET TEXT
		appellees. [13] CMD [14] [6585498] [14 1581] (FP)
6/27/2014	15	Submitted appellant brief by Stanley B. Eisenhammer for Appellant Elijah Manuel. [15] [6586294] [14-1581] (Eisenhammer, Stanley)
6/27/2014	16	Appellant's brief filed by Appellant Elijah Manuel. Paper copies due on 07/07/2014 Electronically Transmitted. [16] [6586424] [14-1581] (RS)
6/27/2014	17	Filed Appendix by Appellant Elijah Manuel. [17] [6586427] Paper copies due on 07/07/2014 [14-1581] (RS)
7/28/2014	18	Motion filed by Appellees Scott P. Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado to extend time to file appellee brief. [18] [6593355] [14-1581] (Wise, John)
7/28/2014	19	Order issued GRANTING motion to extend time to file appellees' brief [18] Appellee's brief due on or before 08/18/2014 for Scott P Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. Appellant's reply brief, if any, is due on or before 09/02/2014 for Appellant Elijah Manuel. Counsel for the appellees is reminded that motions for extension of time should comply with the requirements of Circuit Rule 26. CMD [19] [6593447] [14-1581] (ER)

DATE	NO.	DOCKET TEXT
8/18/2014	20	Submitted appellee brief by John P. Wise for Appellees Scott P Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. [20] [6598538] [14-1581] (Wise, John)
8/18/2014	21	Filed Notice of Filing Brief of the Defendants-Appellees by Appellees Scott P. Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. [21] [6598539] [14-1581] (Wise, John)
8/18/2014	22	Brief deficiency letter sent to Appellees Scott P. Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. [22] [6598608] [14-1581] (RS)
8/18/2014	23	Filed Notice of Filing by Appellees Scott P. Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. notice of intent to file Brief of the Defendants-Appellees. [23] [6598672] [14-1581]--[Edited 08/18/2014 by AD to reflect correct document filed.] (Wise, John)
8/18/2014	24	Re-Submitted appellee brief by John P. Wise for Appellees Scott P. Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. [24] [6598675] [14-1581] (Wise, John)
8/18/2014	25	Appellee's brief filed by Appellees Scott P Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph

DATE	NO.	DOCKET TEXT
		Rosado. Paper copies due on 08/25/2014 Electronically Transmitted. [25] [6598721] [14-1581] (RS)
9/2/2014	26	Submitted appellant reply brief by Stanley B. Eisenhammer for Appellant Elijah Manuel. [26] [6602350] [14-1581] (Eisenhammer, Stanley)
9/2/2014	27	Appellant's reply brief filed by Appellant Elijah Manuel. Paper copies due on 09/10/2014 Electronically Transmitted. [27] [6602761] [14-1581] (SP)
10/31/2014	28	Argument set for Tuesday, December 16,2014, at 10:30 a.m. in the Main Courtroom, Room 2721. Each side limited to 10 minutes. [28] [6617479] [14-1581] (SK)
12/8/2014	29	Received argument confirmation from Stanley B. Eisenhammer for Appellant Elijah Manuel. [29] [6626310] [14-1581] (Eisenhammer, Stanley)
12/8/2014	30	Received argument confirmation from John P. Wise for Appellees Scott P. Cammack, City of Joliet, Thomas Conroy, Terrence J. Gruber and Joseph Rosado. [30] [6626345] [14-1581] (Wise, John)
12/16/2014	31	Case heard and taken under advisement by panel: Diane P. Wood, Chief Judge; Ilana Diamond Rovner, Circuit Judge and John Daniel Tinder, Circuit Judge. [31] [6628307] [14-1581] (ACB)

DATE	NO.	DOCKET TEXT
12/16/2014	32	Case argued by Mr. Stanley B. Eisenhammer for Appellant Elijah Manuel and Mr. John P. Wise for Appellees City of Joliet, Terrence J. Gruber, Thomas Conroy, Scott P. Cammack and Joseph Rosado. [32] [6628319] [14-1581] (ACB)
1/28/2015	33	Filed Nonprecedential, Disposition PER CURIAM. AFFIRMED. Diane P. Wood, Chief Judge; Ilana Diamond Rovner, Circuit Judge and John Daniel Tinder, Circuit Judge. [33] [6637543] [14-1581] (CAG)
1/28/2015	34	ORDER: Final judgment filed per nonprecedential disposition. With costs: yes. [34] [6637546] [14-1581] (CAG)
2/19/2015	35	Mandate issued. No record to be returned. [35] [6642211] [14-1581]--[Edited 02/19/2015 by ACB] (ACB)
4/27/2015	36	Filed notice from the Supreme Court of the filing of a Petition for Writ of Certiorari. 14-9496 [36] [6659001] [14-1581]--[Text updated 06/15/2015 by JR to reflect correct S.C. number.] (FP)
1/19/2016	37	Filed order from the Supreme Court GRANTING the petitioner's motion for leave to proceed in forma pauperis and Petition for Writ of Certiorari. 14-9496. [37] [6721956] [14-1581] (ER)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

[Filed: 04/22/13]

Case No. 13 C 3022

ELIJAH MANUEL

Plaintiff,

v.

CITY OF JOLIET, & ITS: JOLIET POLICE DEPARTMENT
TERRENCE J. GRUBER #261, THOMAS CONROY #271,
SCOTT P. CAMMACK #285, K. STEELE #812,
OFC. #252, OFC. #234, SGT. STEFANSKI #82,
SUPV. #64 J., KNELLER #200,

Defendants'.

Judge Milton I. Shadur
Magistrate Judge Young B. Kim

COMPLAINT UNDER THE CIVIL RIGHTS ACT,
TITLE 42 SECTION 1983 U.S.CODE

I. Plaintiff:

A. Name: Elijah Manuel

B. List all aliases:

C. Prisoner ID Number: 2012-0000555

D. Place of present confinement: Will County Adult Detention Facility

E. Address: 95 S. Chicago St. Joliet, Illinois 60436

II. Defendants:

A. City of Joliet & its: Joliet Police Department

B. Defendant: Terrence J. Gruber
Title: Joliet Police Officer Badge #261 Place of employment: Joliet Police Department

C. Defendant: Thomas Conroy
Title: Joliet Police Officer Badge #271 Place of employment: Joliet Police Department

D. Defendant: Scott P Cammack
Title: Evidence Technician Officer Badge #285
Place of employment: Joliet Police Department

E. Defendant: K. Steele
Title: Joliet Police Officer Badge #812
Place of employment: Joliet Police Department

F. Defendant: Officer
Title: Joliet Police Officer Badge #252
Place of employment: Joliet Police Department

G. Defendant: Officer
Title: Joliet Police Officer Badge #234
Place of employment: Joliet Police Department

H. Defendant: SGT. Stefanski
Title: Sergeant At Scene Officer Badge #82
Place of employment: Joliet Police Department

I. Defendant: Officer
Title: Field Supervisor Officer Badge #64
Place of employment: Joliet Police Department

J. Defendant: J. KNELLER
Title: Joliet Police Officer Badge #200
Place of employment: Joliet Police Department

III. Previous Litigation:

A. Name of case and docket number: _____
_____

B. Approximate date of filing lawsuit: _____

C. List all plaintiffs (if you had co-plaintiffs), including any aliases: _____
_____
_____
_____

D. List all defendants: _____
_____
_____
_____

E. Court in which the lawsuit was filed (if federal court, name the district; if state court, name the county): _____

F. Name of judge to whom case was assigned:
_____

G. Basic claim made: _____
_____
_____

H. Disposition of this case (for example: Was the case dismissed? Was it appealed? Is it still pending?): _____
_____
_____

I. Approximate date of disposition: _____

IV. Statement of Claims:

1.) ILLEGAL SEARCH AND SEIZURE

On March 18th 2011 at 1:20 AM, the plaintiff was involved in a traffic stop by the Joliet Police Department, in the County of Will. The Plaintiff was a passenger of the vehicle. When the stop occurred the driver was licensed and the vehicle was insured. Plaintiff has a copy of proof of insurance and will be use as Exhibit "A" to this complaint and incorporated by reference in it. Plaintiff had proof at the time of the stop, proper documents that the 2005 Pontiac Grand Prix was recently traded in and that the license plate was transferred over to the Dodge Charger. Plaintiff has a copy of the proper documents and will be used as Exhibit "B" to this complaint and incorporated by reference in it. The Joliet Police officers ignored these facts and proceeded to do as they will. The defendants had no legal basis for stopping plaintiff. Defendants falsely accused plaintiff of moving around in the car very quickly and that they could smell the sent of burnt cannabis emitting from the vehicle. This accusation constituted a pretext for a search and seizure of the plaintiff. The true purpose of stopping the plaintiff was to search and harass the plaintiff. Upon the illegal search followed by the malicious arrest, the defendants did conduct a pat down and went into the plaintiff's pants pocket and took from plaintiff his vitamin and mineral bottle, which contained pink vitamins and minerals inside the bottle. The defendants did a field test on the vitamin and mineral pills in fact to see if the pills contained any illegal drugs. Field test results came back as negative. Defendants ignored these facts and proceeded to say the pills were ecstasy pills, which in fact they were not, although plaintiff protested his

innocence. Plaintiff was still transported to the Joliet Police Department. Plaintiff's car was towed because the defendants made false testimony stating, "Plaintiff had 16 pink pills that tested positive as ecstasy." Plaintiff has a copy of tow sheet and why the car was towed. This will be use as Exhibit "C" in this complaint and incorporated by reference in it. The search of the person, vehicle, effects of the plaintiff in public, caused serious emotional injury to the plaintiff. All of these searches were conducted without probable cause or a warrant. There were no reasonable basis existed for the actions taken against the plaintiff. No exigent circumstances existed to justify the failure to obtain warrants prior to conducting the searches. The search and seizure of the plaintiff were unreasonable, intrusive, and intended to harass and harm the plaintiff. The arrest was not justified by probable cause or other legal privilege. All of the defendants acted wantonly, recklessly, willfully, and maliciously with the intent of injuring and oppressing the plaintiff. All the defendants are liable to the plaintiff under Illinois state law for false arrest, imprisonment and illegal search and seizure. At all times mentioned in this complaint, the defendants were acting under color of law, that is under color of the Constitution, statutes, laws, rules, regulations, customs, and usage of the State of Illinois. The defendants and each of them, separately and in concert with each other, engaged in acts and omissions that constituted deprivations of the rights, privileges, immunities of the plaintiff. While these acts were carried out under color of law, they had no justification or excuse in law. There actions were gratuitous, illegal, improper, and unrelated to any activity in which law enforcement officers may appropriately and legally engage in the course of

protecting persons and property of ensuring civil order.

2.) Wrongful And Malicious Arrest

The defendants Terrence Gruber #261 and Thomas Conroy #271 were employed as law enforcement officers at the Joliet Police Department in the County of Will acting within the scope of their employment, with the permission and consent of the City of Joliet. On 3-18-11 a pretext traffic stop had occurred in a Dodge Charger that had 20% tint on the windows, which at 1:20 AM made it impossible to see into the vehicle around that time and stop, near Miles and Elmwood Ave. The plaintiff was awoke by these defendants who opened plaintiff's door and forcibly removed the plaintiff from the vehicle for no apparent reason. The plaintiff tripped over a curve and fell on the ground by Terrance Gruber #261 aggressive tactics. The plaintiff was in the vehicle asleep. Terrance Gruber #261 and Thomas Conroy #271 who assisted wrote false police reports and used perjury testimony to justify there probable cause to search and arrest the plaintiff by stating, "they smelled the scent of burnt cannabis emitting from inside of the vehicle," which was false testimony. The plaintiff never got a chance to roll down the window for which the officers can make that determination. Instead they opened the door and snatched the plaintiff immediately out of the car without probable cause. Also the defendants made false testimony by stating, that, "the plaintiff tried to run away from the officers." That was said, so they can justify there malicious arrest. These officers did then, without a warrant, judicial order, or other authority of law, wrongfully, unlawfully, and without probable cause, arrested plaintiff and compel the plaintiff against his will, to go with them to the Police Precinct

at 150 W. Washington St. Joliet, IL 60436, where the plaintiff was wrongfully and unlawfully detained. The plaintiff was later released on 5-5-11 without any explanation and all charges were dropped by Court Order. Plaintiff has a copy of the Court Order and will be used as Exhibit "D" to this complaint and incorporated by reference in it. At the time of arrest, plaintiff did not commit any offenses for which he could be arrested for. As a result of these acts, plaintiff was deprived of his liberty and has suffered great mental anguish and humiliation, and suffered injuries to his body, good name, and reputation.

3.) Excessive Use Of Force And Malicious Injury

On 3-18-11, at 1:20 AM, plaintiff was a passenger in a automobile that had been stopped. The plaintiff was accompanied by Jeffery I. Faint who was the driver. Plaintiff was awoke by Terrence Gruber #261 who opened plaintiff's door and forcibly and physically removed plaintiff from the vehicle without probable cause. By Terrence Gruber #261 aggressive tactics it had cause the plaintiff to lose his balance and trip over a curve. At that time Terrence Gruber #261 had grabbed, tugged, and pulled the plaintiff down. In addition, he grabbed the plaintiff around the arms and torso and thrusted the plaintiff face down toward the ground. The plaintiff braced his fall with his hands and pushed himself upon his hands and knees. Terrence Gruber #261 then came down by kneeing the plaintiff in his back. Terrence Gruber #261 who out weighed the plaintiff at least 150 pounds. Defendant maintained staying on the plaintiff's back. Plaintiff had landed on the brick sidewalk surface, striking his head and chest against the bricks, immediately causing injury to the plaintiff's body. Defendants handcuffed the plaintiff. Thomas Conroy #271 who

came and assisted Terrence Gruber #261 yelled, "Quit resisting! The plaintiff responded, "I'm not resisting! I'm not resisting!" Thomas Conroy #271 and Tarrance Gruber #261 both began punching and kicking the plaintiff on the ground while handcuffed, making obscene, and derogatory remarks stating, "You remember me street punk, Now I got you, You Fucking Nigger!" Defendants had no legal basis for using excessive force upon the plaintiff. Plaintiff in no way instigated, caused, or contributed to the cqmplained of conduct. Defendants falsely accused plaintiff of trying to run away from them. This accusation constituted a pretext for an arrest. 3 to 5 additional Joliet Police Officers just stood by and did nothing. All the defendants acted wantonly, recklessly, willfully, and maliciously, with the intent of injuring and oppressing the plaintiff. As a result of the acts of the defendants the plaintiff suffered injuries, including an abrasion on the face, black eye, pain in the head and chest. As a further result of the acts of the defendants the plaintiff also suffered injuries, including soreness and numbness of the right wrist and hand, which continued for approximately 4 in a half weeks following the incident. In addition, the plaintiff suffered regular shooting pains from the right elbow to the thumb for approximately 4 in a half weeks following the incident. The frequency of these pains subsided after 4 in a half weeks to about 2 weeks. But, continued intermittently for roughly 4 more weeks. The plaintiff also suffered numbness of the right thumb and index finger for about approximately 5 months following the date of the incident. At the time and place noted in this complaint, plaintiff was assaulted and battered by the defendants. The use of excessive force while plaintiff was in handcuffs was unnecessary and not reasonable.

4.) Deliberate Indifference

At approximately 1:27 AM, the plaintiff was beaten by the Joliet Police Officers Terrence Gruber #261 and Thomas Conroy #271. Plaintiff did not resist arrest in any way. Plaintiff was originally falsely charged with resisting arrest which later plaintiff was exonerated from the charges by the Will County States Attorneys Motion. The following officers: OFC. Badge #252, OFC. Badge #234, the supervisor at the scene Sgt.

Stefanski #82, and filed supervisor badge #64 shall be held accountable for Terrance Gruber #261 and Thomas Conroy #271 actions for kicking and punching the plaintiff on the ground while handcuffed. Defendants just stood by and did nothing to intercede to prevent their fellow police officers from using excessive force while plaintiff was being maliciously arrested and beaten. Each of the the defendants had the power and duty to restrain the other defendants and prevent them from violating the law and rights of the plaintiff, but that each of the defendants failed and refused to perform that duty, failed and refused to restrain the other defendants and became a party to the injuries inflicted on the plaintiff. Defendants would not let plaintiff seek medical attention. Defendants were acting in concert with Terrence Gruber #261 and Thomas Conroy #271. An accordance with a preconceived, customary plan. Defendants City of Joliet and Will County authorized, tolerated as institutionalized practices, and ratified the misconduct detained above by failing to properly discipline, restrict, and control employees, including defendants Terrence Gruber #261 and Thomas Conroy #271, known to be irresponsible in their dealings with citizens of the community. Failing to take adequate precautions in

the hiring, promotion, and retention of police personnel. Including specifically Terrence Gruber #261 and Thomas Conroy #271 for failing to establish or assure the functioning of a bona fide and meaningful departmental system for dealing with complaints with bureaucratic power and official denials calculated to mislead the public. As a consequence of the abuse of authority detained above, plaintiff sustained damages alleged in this compliant.

5.) Wrongfully Detained

On 3-18-11, plaintiff was transported to the Joliet Police Department. Upon the plaintiff's arrival, plaintiff was booked and processed. Plaintiff notice that the defendants no longer had the bottle of the pink vitamins and minerals but instead had them in a clear plastic baggy. Terrence Gruber #261 handed that over to the Evidence Technician Scott P. Cammack #285, who also made perjured testimony in the police reports stating that, "The pink like substance was tested and found to be positive for the presence of ecstasy." Plaintiff has a copy of the Evidence Technician reports regarding to his testing and will be used to this complaint and incorporated by reference in it as Exhibit "E." Defendants used perjured testimony in seeking to press charges on plaintiff. Plaintiff was charged and transported to the Will County Adult Detention Facility. Plaintiff was wrongfully detained and bound to appear in court and to answer to the states false charges. Upon the plaintiff's defense counsel request for the Illinois State Police Laboratory reports from the Joliet Forensic Science Laboratory proved that the defendants had been lying the whole time. The pink pills did not contain any substance for which the defendants tested and falsely said that it did. Plaintiff has a copy of the Illinois State Police

Laboratory reports and will be used to this complaint and incorporated by reference in it as Exhibit "F." The following evidence was submitted to the Joliet Forensic Science Laboratory on March 23, 2011. That's approximately 5 days after the plaintiff's malicious arrest. Plaintiff was wrongfully detained between 3-18-11, until 5-5-11 when the charges were dropped on the states motion. The defendants knew that they brought up false charges on plaintiff or after the laboratory reports, but instead committed to do nothing about their actions. Defendants acted wrongfully, recklessly, willfully, and maliciously with the intent of injuring and oppressing the plaintiff. The plaintiff was wrongfully detained without probable cause.

6.) False Imprisonment

On 3-18-11, the defendants police officers of the City of Joliet accusing plaintiff of having committed the crime of, unlawful possession of controlled substance under the laws of the state. On the same day at 1:20 AM, these police officers arrested plaintiff and restrained his liberty until plaintiff was discharged, as set out below. The plaintiff was arrested on the request, counsel, and command of the defendants. This arrest was made without a warrant or other legal process and was unlawful, in that no crime had been committed and in that there was no reason or cause for belief that plaintiff had committed any crime. In performing all of these acts, defendants were acting willfully and maliciously. After having been arrested, plaintiff was held in custody and restrained until later in the morning of 5-5-11. The plaintiff was released and discharged by the State's Motion issued and sustained by Judge Daniel J. Rozak. (See Exhibit "D") While under arrest and deprived of his liberty,

plaintiff was taken to a police station, fingerprinted, and booked, that is to say, plaintiff's name and pedigree were entered on the police records. According to the police practice on the arrest of criminals; and charge entered noting that the plaintiff had been arrested for unlawful possession of controlled substance. Prior to this arrest, plaintiff had enjoyed a good reputation in and out the City of Joliet, particularly for honesty. In order to obtain his release from this arrest and imprisonment, plaintiff was required to and did employ counsel and was required to expand additional sums of money as well. As a result of the acts described in this complaint, plaintiff was greatly humiliated and subjected to mental and bodily distress. The plaintiff spent at least 50 days incarcerated at the Will County Jail. That's time plaintiff can't get back. The plaintiff employment and college courses were disrupted. Plaintiff financial resources were drained. Plaintiff was dropped out of his college classes and was force to pay for his dropped classes. The plaintiff was unable to pay for his student loans and other bills and as a result to that, several collection actions were brought against the plaintiff, where it has effected his good credit scores. The plaintiff did lose his apartment and his cell phones were cut off and to be stuck with another unpaid bills. The plaintiff was subjected in to public obloquy and it had caused to curtail his associations and creating anxiety in the plaintiff's life, his friends and family. The plaintiff character was assassinated threw the news and social media. The plaintiff's car was towed and damages were done to the car upon the defendants searching the car. The plaintiff was forced to pay a $500 administrative fee, including the tow fee and $40 everyday that the car had to sit for being impounded. Plaintiff has a copy of the following-up report based

on, administrative fee receipt, car towed for, who towed the car, and being released. This will be used to this complaint incorporated by reference in it as Exhibit "G." That amount exceeded $755 dollars not including the damages done to the interior and exterior of the car. During the plaintiff's imprisonment, the plaintiff was beaten up by the E.R.T.'S which is another claim, that the plaintiff wishes not to pursue because of the fear of retaliation from the Will County Staff Members. The plaintiff was denied medical treatment for those injuries. In addition, upon the discharge date of the case, plaintiff was set a $5,000 at 10% bond that shouldn't have never been set in the first place. Plaintiff requests damages in the total sums of $10,600,000.00.

7.) Malicious Prosecution

On 3-18-11, defendant J. Kneller #200 from the Joliet Police Department executed an erroneous and false compliant on oath before the Judge of the County Court of the Twelfth Judicial Circuit of Will County, Illinois, falsely stating that, "The plaintiff did, on 3-18-11, unlawfully and willingly commit an act in violation of the Illinois statutes annotated, commonly known as unlawful possession of controlled substance," respectively. Plaintiff has a copy of this complaint and will be used as Exhibit "H" to this complaint and incorporated by reference in it. As a result of this false complaint a return of an indictment was file upon the plaintiff in the County of Will without probable cause. Plaintiff has a copy of the indictment and will be used as Exhibit "I" to this complaint and incorporated by reference. The defendants relied, wholly or, party on the false statements and allegations of defendants J. Kneller #200, Terrence Gruber #261, and the Evidence Technician Scott P. Cammack #285, in executing the

false complaint without probable cause. On 3-18-11, defendants of the Joliet Police Department falsely and erroneously arrested the plaintiff in Joliet, Illinois. The plaintiff was, taken into custody against his will by the defendants in the City of Joliet, and falsely imprisoned against his will at the Will County Adult Detention Facility in Illinois, from that date of arrest until 5-5-11. That was at least a period of 50 consecutive days. On 5-5-11, after plaintiff had been falsely imprisoned against his will for a period of 50 consecutive days, the complaint, information or indictment was, without trial, dismissed on the motion of the Will County Assistant State's Attorney Erin M. Krone, in Illinois and plaintiff was released from imprisonment. (See Exhibit "D") The charges alleged in the complaint were wholly untrue and false, and the complaint was caused to be issued by the defendants, here for reasons unknown to plaintiff at this time. The defendants falsely imprisoned plaintiff against his will and repeatedly refused and neglected to take reasonable and necessary action to ascertain the falsity of plaintiff's, imprisonment. These defendants could have during the duration of plaintiff's false imprisonment, ascertained that plaintiff was being falsely imprisoned had the defendants exercised reasonable diligence in performing his duties and not repeatedly refused to make reasonable and necessary factual investigation of the charges made against the plaintiff. As a result of his false arrest, malicious prosecution, and imprisonment, plaintiff suffered extreme humiliation and embarrassment during the duration of the false imprisonment. As a further result, plaintiff suffered severe mental anxiety and distress, as well as a severe nervous disorder of his entire body during the duration of the imprisonment. Further, plaintiff suffered physical injury and damage

to his entire body, particularly to his back, legs, hips, right wrist, hand, and mentally disturbed, which resulted in extreme physical pain and suffering during the duration of his false imprisonment, and continuing for an extended period of time afterward. As a further result of the imprisonment, plaintiff is suffering and will continue to suffer for the rest of his lifetime from mental distress, humiliation, embarrassment, and defamation of his character and reputation, which will, in part, cause him future loss of earnings and restrict his opportunities to hold respect and trusted positions in his employment and community. Plaintiff was injured in the total amount of not less than $10,600,000.00.

8.) Assault, Battery, and Negligence

On 3-18-11, at approximately 1:20 AM, plaintiff was stopped by the Joliet Police Department. It was a pretextual traffic stop which the plaintiff was a passenger of the vehicle. Defendant Terrence Gruber #261 forcibly took the plaintiff out of the vehicle causing him to lose his balance by tripping over a curve. Defendant Terrence Gruber #261 grabbed, tugged, and pulled the plaintiff, grabbed the plaintiff around the arms and torso and thrust the plaintiff face down toward the ground. The plaintiff braced his fall with his hands and pushed himself upon his hands and knees. Defendant Terrence Gruber #261 then came down by kneeing the plaintiff in his back. Defendant Terrence Gruber #261 who out weighed the plaintiff at least 150 pounds at the time maintained staying on the plaintiff's back. The plaintiff landed on the brick sidewalk surface, striking his head and chest against the bricks, immediately causing injuries to the plaintiff's body. Defendant Thomas Conroy #271 yelled, Quit resisting! The plaintiff responded, I'm not

resisting! When Terrence Gruber #261 had the plaintiff already in handcuffs the defendants started kicking and punching the plaintiff on the ground making derogatory remarks, to plaintiff. It was 3 to 5 additional Joliet Police Officers just stood by watched and did nothing. The tight handcuffs on the plaintiff's wrists, causing the plaintiff to experience pressure from the cuffs on his right wrist. The position of the short chain between the two cuffs and the tightness of the cuffs on the plaintiff made it impossible for the plaintiff to avoid the twisting and pressure caused by the improperly placed cuffs. The improper placement of the cuffs caused the plaintiff's hand to swell, resulting in numbness and soreness in the plaintiff's right wrist and hand. Defendants actions was not reasonable. The defendants purposely inflicted pain upon the plaintiff. The defendants assault and battered the plaintiff and there actions was in the form of negligence.

9.) Perjury

On 3-18-11, Defendants Terrence J. Gruber #261, Scott P. Cammack #258, and J. Kneller #200 is law enforcement officers employed by a law enforcement agency known as Joliet Police Department within Will County, Illinois. The defendants and each of them, knowingly, maliciously, and willfully conspired and agreed among themselves to nutritiously or unlawfully injure plaintiff by committing perjury, here in furtherance of their conspiracy and agreement, defendants Terrence J. Gruber #261 did in fact sign a affidavit in support of probable cause stating, "There reports prepared by him is true and correct." Plaintiff has a copy of affidavit in support of probable cause and it will be used as Exhibit "J" to this complaint and incorporated by reference in it. This is to prove

Terence J. Gruber #261 is under penalties as provided by law for false certification and perjury information. Terrence J. Gruber #261 and the other defendants shall be held accountable for perjury. For making false reports and maliciously arresting plaintiff without probable cause. Defendants unlawfully and wrongfully seizing plaintiff's person without probable cause, causing him unlawful detention and incarceration on serious charges that they knew or should have known were false. The defendants knowingly and willfully submitting false data regarding the transaction that led to the plaintiff's arrest. The defendants knowingly and willfully uttering false testimony that led to plaintiff's complaint and indictment. The defendants stated, "The test results at the Joliet Police Department was tested and came back as positive for ecstasy," which the defendants knew indeed was false testimony. (See Exhibit "F") And (See Exhibit "E") The defendants conspiring to suborn perjured police testimony. The Joliet Police Department failed to supervise or properly train the defendants and through their lack of proper supervision and training permitted these individuals to commit some or all of the acts complained of in the preceding complaint. The defendants fail to notify the plaintiff's attorney or the Will County District Attorney that defendants were falsifying their case files. As a result of the actions of the defendants, plaintiff was indicted under indictment #11 CF-546, arrested, held overnight in jail, was required to post bail, and incarcerated for 50 days or more. The charges was finally dismissed on 5-5-11. As a result solely of the acts of the defendants, plaintiff was denied fundamental rights, was deprived of liberty, and was forced to answer criminal charges of the most heinous nature. In addition, plaintiff was forced to undergo the mental scars of the ordeal. The

actions of the defendants were wanton, willful, unlawful, malicious, and vicious, without regard for the System of Justice in the United States.

10.) Intentional Infliction of Emotional Distress

What the plaintiff had to endure, he hasn't been right mentally and physically since the malicious acts took place. The plaintiff is suffering from depression, having a hard time to sleep where he has to take sleeping pills. He's paranoid of what wrongfully might happen to him next. Plaintiff haven't been able to keep a steady job because of the lack of motivation coming from the depression. The plaintiff doesn't talk or interact the same as how he use to since this incident took place. The plaintiff is starting to have suicidal thoughts on his life and is giving up on his communication to friends, family, and those who do try to help make the situation better. Plaintiff rarely comes outside fearing something will happen to him. The plaintiff is eating very poorly which in do time will cause bodily harm to the plaintiff. Defendants conduct in false reports, unlawful search and seizure, excessive force, battery, perjury, wrongfully arrested and false imprisonment circulating on 3-18-11, the arrest was intentional and malicious and done for the purpose of causing plaintiff to suffer humiliation and mental anguish. Defendant's conduct in confirming and ratifying these acts was done with knowledge that plaintiff would suffer emotional distress and was done with a wanton and reckless disregard of the consequences to the defendant's. On the date of arrest it had clearly exposed plaintiff to hatred, contempt, ridicule, and obloquy, because it falsely depicted defendant as a police officer who behaved in a heinous and criminal manner, who intentionally altered a crime scene, and who made false testimony in an attempt to frame the

plaintiff. As a direct and proximate result of the defendants scandalous and outrageous acts, plaintiff has suffered humiliation, mental anguish, and emotional distress, all to plaintiff's damages in an amount not less than $10,600,000.00.

11.) Official Capacity

The plaintiff is a citizen of the United States of America and a resident of Will County, Illinois. The defendant, City Of Joliet is a municipal corporation existing under color of law and by virtue of the laws of the State of Illinois. The defendant's, Joliet Police Department in the City of Joliet is a duly constituted municipal police agency that was created by functions under the control of the City Of Joliet. The defendant's named in this complaint was, at all material times, a member of the Joliet Police Department in the City of Joliet, County of Will. The actions of the officers constitute false and malicious arrest, perjury, I.D.S.D, assault and battery in violation of Illinois, common law. The City of Joliet is reliable to the plaintiff for the unlawful actions of the defendant's as they was acting within the scope of there employment as a law enforcement officer of the County of Will, in Illinois. The actions of the defendant's constitute negligence in violation of Illinois common law. The officers had a duty to the plaintiff not to place handcuffs on the plaintiff's wrists so that the mere placement of the handcuffs caused pain and injury. The officers breached their duty when they placed handcuffs on the plaintiff's wrists in the manner that caused the plaintiff pain and injury and without probable cause. This breach of their duty constituted negligence in violation of Illinois common law and was one of the direct and proximate cause of the plaintiff's pain and injury. The defendant's City of Joliet and the Joliet

Police Department is liable to the plaintiff for the unlawful actions of the officers as they were acting within the scope of their employment as law enforcement officers from the Joliet Police Department in the City Of Joliet. The actions of the officers set forth in this complaint violated the plaintiff's right to be free from unreasonable detention, abuse of due process, search and seizure, under the Fourth and Fourteenth Amendment of the United States Constitution. Defendants is liable to the plaintiff for these unlawful actions in violation of the United States Constitution of America.

V Relief:

The actions and omissions described in this complaint, engaged under the color of state authority by the defendants. (Including defendant the Will County Board, sue as a person and responsible because of its authorization, condemnation, and ratification of the acts of its agents), deprived the plaintiff of rights secured to him by the constitution of the United States. The defendants actions were done with the knowledge by defendants that these acts would cause plaintiff to suffer great humiliation, mental anguish, and injury. Defendants actions were, therefore, despicable conduct and so willful, wanton, intentionally and actually malicious and oppressive as to justify the award for damages. Solely as a result of these actions, plaintiff was deprived of his freedom for a period of time, suffered severe emotional trauma and injury, was subjected to great fear and terror, and personal humiliation and degradation has continued to suffer from mental and emotional distress as a result of the unlawful conduct of the defendants, and has been caused to fear repetition of the unlawful conduct by the defendants, and has been cause to fear repetition

of the unlawful conduct by the defendants or by other police officers. Each of the defendants, jointly and severely, acted maliciously, willfully, and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated rights of the plaintiff's Fourth, Fourteenth, and Eighth Amendments. All of these rights are secured to the plaintiff by provisions of the Amendment of the Constitution in the United States of America and which all of the defendants named here in this compliant had clearly violated the plaintiff's rights. The defendants intentionally and for the purpose of causing sever mental distress conducted themselves toward in a manner so outrageous and shocking that it exceeded all reasonable bounds of decency. Defendants did at times and in the manner set forth above prosecuted the plaintiff maliciously without probable cause. Defendants were responsible for the institution or continuance of the original felony criminal proceedings against plaintiff The felony criminal proceedings instituted and continued against the plaintiff were wholly without legal or probable cause, were instituted and continued with malice, and the proceedings were terminated in favor of the plaintiff. (See Exhibit "D") Plaintiff's prayer for relief and seeks:

A. On all the claims stated in this complaint the plaintiff asks court to enter declaratory judgment against defendants, Will County Board, City Of Joliet, and the Joliet Police Department, and their employees named in this complaint;

B. An award of punitive and exemplary damages to plaintiff in an amount to be determined by the trier of facts as sufficient to punish each defendant against whom (plaintiff), these damages are

awarded and sufficient to deter similar conduct in the-future by these defendants;

C. An award of Special damages, pain and suffering damages for the injuries that the plaintiff suffered as a result of the claims stated in this complaint. The plaintiff asks the court to hold defendants jointly and severely liable for there malicious conducts;

D. An award of general and compensatory damages to plaintiff in an amount to be determined by the trier of fact as sufficient to compensate the plaintiff for the injuries described in this complaint;

E. An award of negligence and personal injury to plaintiff;

F. An award total in the sum: $10,600,000.00;

G. If this Honorable Court deems proper, that criminal charges be filed by the U.S Attorney Office, in this matter, pursuant to Illinois or Federal Criminal Statues against Officer Terrence J. Gruber #261, Thomas Conroy #271 for Battery, Assault, Perjury, and Police Misconduct, in further, officers Scott P Cammack #285, and J. Kneller #200 for Perjury;

H. An award of reasonable costs and expenses to plaintiff in this action, including attorney's fee if any; and

J. An award to plaintiff of all other relief that is justified proper.

VI. Plaintiff demands a jury trial of his constitutional claims against all the defendants named in this Civil Action.

CERTIFICATION

By signing this Complaint, I certify that the facts stated in this Complaint are true to the best of my knowledge, information and belief. I understand that if this certification is not correct, I may be subject to sanctions by the Court.

Signed this 10 day of April, 2013

/s/ Elijah Manuel
(Signature of plaintiff or plaintiff's)

Elijah Manuel
(Print name)

20112-0000555
(I.D. Number)

95 S. Chicago St.
Joliet, IL 60436

Official Seal
CHRISTINE A. MILLER
NOTARY PUBLIC – STATE OF ILLINOIS
MY COMMISSION EXPIRES 07/11/15

State of Illinois
County of Will
Signed before me (date) 4/10/13
/s/ Christine A. Miller
Signature of notary public

"Exhibit D"

5/05/11 09:08:32 WCCH

STATE OF ILLINOIS)
)SS
COUNTY OF WILL)

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

2011 MAY -4 PM 12

STATE
Plaintiff
vs
ELIJAH MANUEL
Defendant

No. [redacted]

COURT ORDER

SHOW THAT THE DEFENDANT IS PRESENT IN THE CUSTODY OF THE SHERIFF ON THE STATE'S MOTION, THIS MATTER IS ORDERED NOLLE PROSED THE DEFENDANT IS ORDERED RELEASED AS INSTANTER AS TO THIS MATER ONLY THE 11 TR 12668-70, 11 TR 19976, AND 10 TR 107172-73 ARE SET FOR STATUS IN COURTROOM 304 ON 5-5-11 AT 9AM. THE DEFENDANT'S BOND FOR 11 TR 12668-70, 11 TR 19976, AND 10 TR 107172-73 IS SET IN THE AMOUNT OF $ [redacted] - 10% TO APPLY, AND HE HAS $350 TO APPLY

ASA

Attorney or Party, if not represented by Attorney
Name TODD LESHE, ASD
ARDC #
Firm Name
Attorney for DEFENDANT
Address
City & Zip
Telephone

Dated: 5-4-11, 20
Entered:
Judge

WCCH 05052011

PAMELA J. MCGUIRE, CLERK OF THE CIRCUIT COURT OF WILL COUNTY

White - Court Yellow - Plaintiff Pink - Defendant

17 D Revised (06/06)

Joliet Police Department
Department Case Report

Department Case Number: 110318004686

Exhibit E

Related Case # 's:

Case Information

Case Officer: JPD261 - GRUBER TERRENCE J.
Offense Date/Time: 03/18/2011 - 01:20Hrs
Offense Location: ELMWOOD AND MILES
Offense Type: 2040 - DELIVERY/POSSESSION W/INTENT DELIVER CONTROLLED SUBSTANCE
Expiration Date: 03/18/2014
Jurisdiction: Will County
Court Date:
Disposition:
Disposition Date:
Case Comments:

Case Names

Name Type: Suspect/Arrestee
Name: Manuel, Elijah
Address: 1014 E CLINTON
Joliet,Il 60432
Additional Name Information:
Sex: M Race: B DOB: 06/01/1985
Home Phone#:
ID#:
SSN#:

Name Type: Victim
Name: STATE OF IL
Address: SPRINGFIELD, IL
Additional Name Information:
Sex: Race: DOB:
Home Phone#:
ID#:
SSN#:

Case Items

Item Number: 001
Container #:
Status/Location: Items Submitted to Property - Temporary Pass Thru Locker T20
Collection Date/Time: 03/18/2011 - 01:20Hrs
Collected By: JPD261 - GRUBER TERRENCE J.
Collection Location: ELMWOOD AND MILES
Packaging/Quantity/Item Type: One sealed envelope with: - 1 - Suspected Ecstasy
Detail Description: 16 PINK PILLS IN THE SHAPE OF THE UNITED STATES STAMPED WITH USA
Owner: Elijah Manuel
Weight : 7.30
Item Notes:
Process: Held for investigative purposes
Collection Purpose: Evidence
Hazmat: [NONE]
Weight Units : G - GRAMS

Lab Submissions

261 03/18/11

Date

Supervisor Signature

Joliet Forensic Science Laboratory
515 East Woodruff Road
Joliet, IL 60432
(815) 740-3543

Joliet Police
J11-002498
03/23/2011

LABORATORY SUBMITTAL FORM

CASE No. : 1103180004686 /

OFFENSE : 2040 DELIVERY/POSSESSION W/INTENT DELIVER CONTROLLED SUBSTANCE

DATE OF OFFENSE : 03/18/2011

SUBMITTING AGENCY: Agency

COURT DATE :

DELIVERING OFFICERS SIGNATURE

INVESTIGATED BY : GRUBER TERRENCE J.

PHONE No. : Phone#

FORWARD REPLY TO : CAMMACK SCOTT P.

NAME / SID #

(Name Type)	Case Name	(Gender)	(Race)	(DOB)	(SID #)
Suspect/Arrest ee	Manuel, Elijah	M	B	06/01/1985	
Victim	STATE OF IL				

SUBMISSION TYPE: HD - Hand Delivered
COMMENTS TO LAB: please examine for ecstacy

LIST OF SPECIMENS: (INDICATE DEFENDANT/LOCATION IF KNOWN)

Item Number: 001

Packaging: One sealed envelope with: 1 Suspected Ecstasy

Item Description: 16 PINK PILLS IN THE SHAPE OF THE UNITED STATES STAMPED WITH USA

Collected: 03/18/2011 1:20

Name: Elijah Manuel

Item Notes:

Exam: Drug Examination

use as Exhibit "E"

ILLINOIS STATE POLICE
Division of Forensic Services
Joliet Forensic Science Laboratory
515 East Woodruff Road
Joliet, Illinois 60432-1260
(815) 740-3543 (Voice) * 1-(800) 255-3323 (TDD)

Pat Quinn
Governor

Patrick E. Keen
Interim Director

April 1, 2011

LABORATORY REPORT

CAMMACK SCOTT P
JOLIET PD
150 WEST WASHINGTON STREET
JOLIET, IL 60432

Laboratory Case #J11-002490
Agency Case # 110318004686

OFFENSE Violation of Controlled Substances Act
SUSPECT Elijah Manuel

The following evidence was submitted to the Joliet Forensic Science Laboratory by E. Stanley on March 23, 2011:

LAB/AGENCY	ITEM SUBMITTED	FINDINGS
1A/001	1.4 grams of five pink tablets	No scheduled substance found
1B/001	3.1 grams of 11 pink tablets, consistent in appearance with Exhibit 1A	No Analysis

730 ILCS 5/5-9-1.4(b) states that a criminal laboratory analysis fee of $100 shall be imposed for persons adjudged guilty of an offense in violation of the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act.

Respectfully submitted,

Pamela M. Wilson
Forensic Scientist

cc: WILL CO SA

use as Exhibit "F"

IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

[Filed 4/22/13]

Case No. 2011 CF 546

PEOPLE OF THE STATE OF ILLINOIS

vs.

ELIJAH MANUEL

CRIMINAL COMPLAINT

CHARGE

On this 18 day of March, 2011, complainant J. KNELLER #200 charges the commission of an offense as follows:

on or about March 18, 2011, at and within Will County, Illinois, ELIJAH MANUEL, a male person, committed the offense of:

UNLAWFUL POSSESSION OF A
CONTROLLED SUBSTANCE
(Class 4 Felony)

in that, said defendant, knowingly and unlawfully possessed a substance containing methlenedoixymeth-amphetamine, a controlled substance, other than as authorized in the Illinois Controlled Substances Act, in violation of Chapter 720, Section 570/402(c), of the Illinois Compiled Statutes, 2011 and AOIC 5101110.

OATH

The undersigned being duly sworn on oath says that the foregoing charge is true.

SIGNED: /s/ J. Kneller #200

Subscribed and sworn to before me on
18 day of March, 2011.

/s/ Nichole A Wierzbowski
Judge or Notary Public

OFFICIAL SEAL
NICHOLE A WIERZBOWSKI
NOTARY PUBLIC — STATE OF ILLINOIS
MY COMMISION EXPIRES 10/18/14

MJC/nas
JPD #11-0318004686
dcn #L52163797

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

Case No. 2011 CF 546

PEOPLE OF THE STATE OF ILLINOIS

vs.

ELIJAH MANUEL

BILL OF INDICTMENT

Indictment returned by Grand Jury empaneled by the Circuit Court of the Twelfth Judicial Circuit, County of Will, State of Illinois, on February 16, 2011.

The GRAND JURORS, chosen, selected and sworn, in and for the County of Will in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that:

on or about March 18, 2011, at and within Will County, Illinois, ELIJAH MANUEL, a male person, committed the offense of:

UNLAWFUL POSSESSION OF A
CONTROLLED SUBSTANCE
(Class 4 Felony)

in that said defendant knowingly and unlawfully possessed a substance containing methylenedioxymethamphetamine, a controlled substance, other than as authorized in the Controlled Substances Act, in violation of Chapter 720, Section 570/402(c), of the Illinois Compiled Statutes, 2011, contrary to the

Statute, and against the peace and dignity of the same People of the State of Illinois.

A TRUE BILL

/s/ Christine Sarley
Foreman of the Grand Jury

FILED MARCH 31, 2011

LIST OF WITNESSES

WHO TESTIFIED BEFORE GRAND JURY

Terrence Gruber

/s/ Christine Sarley
Foreman of the Grand Jury

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
WILL COUNTY

The within indictment returned in open Court 3/31/11

BAIL SET AT $ 50000-10%

Warrant of Arrest ☐ ordered ☒ stayed to issue.

/s/ [Illegible]
Judge of the Circuit Court

PREVIOUS CONDITIONS
OF BOND
TO REMAIN IN EFFECT

FILED MARCH 31, 2011

REPORT #
LJ1-110318004686

ARREST REPORT SUPPLEMENT

JOLIET POLICE DEPARTMENT
150 WEST WASHINGTON STREET
JOLIET, IL 60432

ARRESTEE'S NAME	SEX	RACE	DOB
MANUEL, ELIJAH	M	B	6/1/85

☒	FELONY	GANG AFFILIATION			
		GANG NAME NONE			
☐	MISDEMEANOR	☐	SELF-ADMITTED	☐	OFFICER'S KNOWLEDGE

SPECIAL CAUTIONS (HEALTH, OFFICER SAFETY, OTHER)

STATED NONE

EMERGENCY NOTIFICATION INFORMATION

NAME	ADDRESS	PHONE	RELATIONSHIP
MANUEL, DEBORAH	1014 CLINTON ST	815 722-7001	MOTHER

STATE'S ATTORNEY APPROVAL BY:	

AFFIDAVIT IN SUPPORT OF PROBABLE CAUSE

The undersigned officer, under penalties as provided by law for false certification pursuant to Section 1-109 of the Code of Civil Procedure and perjury pursuant to 720 ILS 32-2, hereby certifies that he/she is a law enforcement officer employed by a law enforcement agency within Will County, Illinois and that he/she has reviewed and signed the attached reports prepared by him/her and upon information and belief the information contained in the reports is true and correct to the best of his/her knowledge at this time and the said reports were prepared during the normal course of an official law enforcement investigation and the said reports are hereby incorporated into and made a part of this affidavit to support a finding of probable cause to believe the above captioned detainee(s) have/has committed the above named offense(s).

Officer's Signature and Star No

Department

Officer's Printed Name

use as Exhibit 5

ATTACH TO WILL COUNTY ADULT DETENTION ARREST REPORT

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

[Filed: 09/20/13]

Case No.: 13 C 3022

ELIJAH MANUEL,

Plaintiff,

v.

CITY OF JOLIET, a municipal corporation, OFC. TERRENCE J. GRUBER, OFC. THOMAS CONROY, SGT. SCOTT P. CAMMACK, OFC. AARON BANDY, OFC. JEFFREY GERMAN, SGT. JOHN STEFANSKI, SGT. JOSEPH ROSADO, OFC. JEFFREY KNELLER, UNKNOWN OFFICERS OF THE WILL COUNTY SHERIFF'S OFFICE, and WILL COUNTY,

Defendants.

Judge Milton I. Shadur

Magistrate Judge Young B. Kim

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

JURY DEMANDED

FIRST AMENDED COMPLAINT

JURISDICTION AND VENUE

1. This action arises under the United States Constitution and the Civil Rights Act of 1871 (42 U.S.C. § 1983). This court has jurisdiction under and by virtue of 28 U.S.C. §§ 1343, 1331, and 1367

2. Venue is founded in this judicial court upon 28 U.S.C. § 1391 as the acts complained of arose in this district.

PARTIES

3. At all times herein mentioned, Plaintiff Elijah Manuel (hereinafter "MANUEL" or "PLAINTIFF") was and is a citizen of the United States, and was within the jurisdiction of this court.

4. At all times herein mentioned, Defendant Joliet Police Officer Terrence J. Gruber, Star No. 261 (hereinafter "GRUBER"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity

5. At all times herein mentioned, Defendant Joliet Police Officer Thomas Conroy, Star No. 271 (hereinafter "CONROY"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity.

6. At all times herein mentioned, Defendant Joliet Police Sergeant Scott P. Cammack, Star No. 285 (hereinafter "CAMMACK"), was employed by the City of Joliet Police Department, and was acting under

color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity.

7 At all times herein mentioned, Defendant Joliet Police Officer Aaron Bandy, Star No. 252 (hereinafter "BANDY"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity.

8. At all times herein mentioned, Defendant Joliet Police Officer Jeffrey German, Star No. 234 (hereinafter "GERMAN"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity.

9. At all times herein mentioned, Defendant Joliet Police Sergeant John Stefanski, Star No. 82 (hereinafter "STEFANSKI"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity.

10. At all times herein mentioned, Defendant Joliet Police Sergeant Joseph Rosado, Star No. 64 (hereinafter "ROSADO"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department.

This Defendant is being sued in his individual and official capacity.

11. At all times herein mentioned, Defendant Joliet Police Officer Jeffrey Kneller, Star No. 200 (hereinafter "KNELLER"), was employed by the City of Joliet Police Department, and was acting under color of state law and as the employee, agent, or representative of the City of Joliet Police Department. This Defendant is being sued in his individual and official capacity.

12. At all times herein mentioned, an unknown number of unnamed Will County Sheriff's officers ("Unknown Officers") were employed by the Will County Sheriff, and were acting under color of state law and as the employees, agents, or representatives of the Will County Sheriff. These Defendants are being sued in their individual and official capacities. Upon discovery of their identities, Plaintiff will amend the complaint to add them as defendants.

13. At all times herein mentioned, the City of Joliet was a political division of the State of Illinois, existing as such under the laws of the State of Illinois. At all relevant times, the City of Joliet maintained, managed, and/or operated the Joliet Police Department.

14. At all times herein mentioned, Will County was a political division of the State of Illinois, existing as such under the laws of the State of Illinois. At all relevant times, Will County maintained, managed, and/or operated the Will County Sheriff's Office.

FACTUAL ALLEGATIONS

15. Plaintiff had numerous interactions with Defendants Conroy and Gruber prior to March 18, 2011.

16. Defendants Conroy and Gruber have stopped the Plaintiff on numerous occasions without justification.

17. Defendants Conroy and Gruber have harassed the Plaintiff on several occasions prior to and subsequent to March 18, 2011.

18. On these prior occasions, the Plaintiff has been stopped by Defendants Conroy and Gruber because Defendants Conroy and Gruber have knowledge that the Plaintiff's brother, Floyd Faint, has had numerous problems with the law.

19. The Plaintiff also had an interaction with Defendant Stefanski prior to March 18, 2011, during which interaction Defendant Stefanski had unsuccessfully attempted to charge the Plaintiff with criminal charges.

20. On or about March 18, 2011, the Plaintiff was lawfully in a public place, in the city of Joliet, Will County, Illinois.

21. The Plaintiff was sitting on the passenger side of his vehicle, a 2008 Dodge Charger.

22. The Plaintiff's brother, Jeffrey Faint, was in the driver's seat.

23. On that day and place Defendant Gruber stopped Plaintiff's vehicle and opened the Plaintiff's passenger door, where Plaintiff was sitting.

24. Defendant Gruber seized the Plaintiff.

25. Plaintiff did not consent to being seized.

26. There was no outstanding arrest warrant for the Plaintiff.

27. There was no legal cause to stop and/or seize the Plaintiff.

28. There was no probable cause to stop and/or seize the Plaintiff.

29. During the course of seizing the Plaintiff, Defendant Gruber forcefully removed the Plaintiff from the vehicle.

30. Defendant Gruber yelled something similar to: "You remember me? I got you now you fucking nigger."

31. Defendant Gruber pushed the Plaintiff to the ground.

32. Defendant Gruber used unnecessary, unreasonable, and excessive additional force on the Plaintiff, while the Plaintiff was on the ground.

33. There was no legal cause for Defendant Gruber to use force against the Plaintiff.

34. Defendant Gruber's use of unnecessary, unreasonable, and excessive force injured the Plaintiff; specifically the Plaintiff sustained injuries to his back, head, and hand.

35. Defendant Gruber conducted a search of the Plaintiff's person, including a pat down.

36. Defendant Gruber did not have probable cause to search the Plaintiff's person.

37 Defendant Gruber did not have legal cause to search the Plaintiff's person.

38. Defendant Gruber located a bottle of vitamins on the Plaintiff's person, which contained vitamins in the form of pills or capsules.

39. Defendant Conroy witnessed Defendant Gruber use force on the Plaintiff.

40. Defendant Conroy knew that Defendant Gruber was using unnecessary, unreasonable, and excessive force on the Plaintiff.

41. Defendant Conroy had a realistic opportunity to prevent the harm from occurring.

42. Defendant Conroy failed to take any action to protect the Plaintiff from the force used by Defendant Gruber.

43. Defendant Conroy's failure to act caused the Plaintiff to suffer harm.

44. Defendant Conroy witnessed Defendant Gruber search the Plaintiff.

45. Defendant Conroy knew that Defendant Gruber had no legal cause to search the Plaintiff's person.

46. Defendant Conroy had a realistic opportunity to prevent the harm from occurring.

47. Defendant Conroy failed to take any action to prevent the unlawful search.

48. Defendant Conroy's failure to act caused the Plaintiff to suffer harm.

49. Defendant Conroy seized the Plaintiff's brother, Jeffrey Faint.

50. Defendant Sergeant John Stefanski was also at the scene of the incident on March 18, 2011.

51. Defendant Stefanski witnessed Defendant Gruber use force against the Plaintiff.

52. Defendant Stefanski knew that Defendant Gruber was using unreasonable, unnecessary, and excessive force on the Plaintiff.

53. Defendant Stefanski had a realistic opportunity to prevent the harm from occurring.

54. Defendant Stefanski failed to take any action to protect the Plaintiff from the force used by Defendant Gruber.

55. Defendant Stefanski's failure to act caused the Plaintiff to suffer harm.

56. Defendant Stefanski witnessed Defendant Gruber search the Plaintiff.

57 Defendant Stefanski knew that Defendant Gruber had no legal cause to search the Plaintiff's person.

58. Defendant Stefanski had a realistic opportunity to prevent the harm from occurring.

59. Defendant Stefanski failed to take any action to prevent the unlawful search.

60. Defendant Stefanski's failure to act caused the Plaintiff to suffer harm.

61. Defendant Officer Aaron Bandy was also at the scene of the incident on March 18, 2011.

62. Defendant Bandy witnessed Defendant Gruber use force against the Plaintiff.

63. Defendant Bandy knew that Defendant Gruber was using unreasonable, unnecessary, and excessive force on the Plaintiff.

64. Defendant Bandy had a realistic opportunity to prevent the harm from occurring.

65. Defendant Bandy failed to take any action to protect the Plaintiff from the force used by Defendant Gruber.

66. Defendant Bandy's failure to act caused the Plaintiff to suffer harm.

67. Defendant Bandy witnessed Defendant Gruber search the Plaintiff.

68. Defendant Bandy knew that Defendant Gruber had no legal cause to search the Plaintiff's person.

69. Defendant Bandy had a realistic opportunity to prevent the harm from occurring.

70. Defendant Bandy failed to take any action to prevent the unlawful search.

71. Defendant Bandy's failure to act caused the Plaintiff to suffer harm.

72. Defendant Officer Jeffrey German was also at the scene of the incident on March 18, 2011.

73. Defendant German witnessed Defendant Gruber use force against the Plaintiff.

74. Defendant German knew that Gruber was using unnecessary, unreasonable, and excessive force against the Plaintiff.

75. Defendant German had a realistic opportunity to prevent harm from occurring.

76. Defendant German failed to take any action to protect the Plaintiff from the force used by Defendant Gruber.

77. Defendant German's failure to act caused the Plaintiff to suffer harm.

78. Defendant German witnessed Defendant Gruber search the Plaintiff

79. Defendant German knew that Defendant Gruber had no legal cause to search the Plaintiff's person.

80. Defendant German had a realistic opportunity to prevent the harm from occurring.

81. Defendant German failed to take any action to prevent the unlawful search.

82. Defendant German's failure to act caused the Plaintiff to suffer harm.

83. Defendant Sergeant Joseph Rosado was also at the scene of the incident on March 18, 2011.

84. Defendant Rosado witnessed Gruber use force against the Plaintiff.

85. Defendant Rosado knew that Gruber was using unreasonable, unnecessary, and excessive force on the Plaintiff.

86. Defendant Rosado had a realistic opportunity to prevent the harm from occurring.

87 Defendant Rosado failed to take any action to protect the Plaintiff from the force used by Defendant Gruber.

88. Defendant Rosado's failure to act caused the Plaintiff to suffer harm.

89. Defendant Rosado witnessed Defendant Gruber search the Plaintiff.

90. Defendant Rosado knew that Defendant Gruber had no legal cause to search the Plaintiff's person.

91. Defendant Rosado had a realistic opportunity to prevent the harm from occurring.

92. Defendant Rosado failed to take any action to prevent the unlawful search.

93. Defendant Rosado's failure to act caused the Plaintiff to suffer harm.

94. Defendant Officer Jeffrey Kneller was also at the scene of the incident on March 18, 2011.

95. Defendant Kneller witnessed Gruber use force against the Plaintiff.

96. Defendant Kneller knew that Gruber was using unreasonable, unnecessary, and excessive force on the Plaintiff.

97. Defendant Kneller had a realistic opportunity to prevent the harm from occurring.

98. Defendant Kneller failed to take any action to protect the Plaintiff from the force used by Defendant Gruber.

99. Defendant Kneller's failure to act caused the Plaintiff to suffer harm.

100. Defendant Kneller witnessed Defendant Gruber search the Plaintiff.

101. Defendant Kneller knew that Defendant Gruber had no legal cause to search the Plaintiff's person.

102. Defendant Kneller had a realistic opportunity to prevent the harm from occurring.

103. Defendant Kneller failed to take any action to prevent the unlawful search.

104. Defendant Kneller's failure to act caused the Plaintiff to suffer harm.

105. Defendant Stefanski searched the Plaintiff's car.

106. Defendant Stefanski was without legal cause to search the Plaintiff's car.

107. Defendant Conroy searched the Plaintiff's car.

108. Defendant Conroy was without legal cause to search the Plaintiff's car.

109. Defendant Gruber searched the Plaintiff's car.

110. Defendant Gruber was without legal cause to search the Plaintiff's car.

111. During the Defendants' search of the Plaintiff's vehicle, damage was sustained to the interior of the Plaintiff's vehicle.

112. Unknown Joliet Police Officer Defendants at the scene field tested the pills to determine if the pills were a controlled substance.

113. The field test revealed that the pills were not a controlled substance.

114. The Defendants on the scene were aware that the pills confiscated from the Plaintiff's person were not a controlled substance.

115. Defendant Gruber handcuffed and arrested the Plaintiff with the assistance of another Defendant on the scene.

116. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller knew that they had no legal cause or probable cause to arrest the Plaintiff.

117 Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller did not take any steps to prevent the arrest of the Plaintiff or to release the Plaintiff, after he was arrested.

118. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller had the ability and duty to cause the Plaintiff to be released from police custody due to the lack of probable cause.

119. The Plaintiff is informed and believes and alleges thereon that Defendants Gruber, Conroy, Stefanski, Bandy, German, Rosado, Kneller, and Cammack entered into an agreement to improperly search, falsely arrest, and bring false criminal charges against the Plaintiff. The Plaintiff is informed and believes and alleges thereon that Defendants Gruber, Conroy, Stefanski, Bandy, German, Rosado, Kneller, and Cammack conspired with one another to cause the Plaintiff to be improperly searched and to be falsely arrested and to bring false criminal charges against the Plaintiff.

120. The Plaintiff was transported to the Joliet police station on Washington Street in Joliet, Illinois where he was imprisoned.

121. At the Joliet police station on Washington Street, Defendant Cammack tested the pills confiscated from the Plaintiff.

122. The Plaintiff is informed and believes and alleges thereon that the test results showed that the pills were not a controlled substance.

123. The Plaintiff is informed and believes and alleges thereon that all named Defendants lied about the results of the test and claimed that the test showed a positive result for a controlled substance.

124. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack knew that the pills were not a controlled substance.

125. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack knew that they had no legal cause or probable cause to detain Manuel in police custody.

126. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack did not take steps to release Manuel from police custody.

127. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack had the ability and duty to cause the Plaintiff to be released from police custody.

128. On or about March 18, 2011, Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack caused false criminal charges to be brought against Plaintiff for possession of a controlled substance, with intent to deliver.

129. The Defendants caused these charges to be brought against the Plaintiff without probable cause of illegal conduct by the Plaintiff

130. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack had no legal cause or probable cause to charge the Plaintiff with possession of a controlled substance.

131. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, Kneller, and Cammack did not take steps to cause Plaintiff to be released from police custody.

132. Plaintiff was transferred to the Will County Adult Detention Facility (WCADF), run by Will County, on or about March 18, 2011.

133. At the WCADF, the Plaintiff requested medical attention for his injuries resulting from the arrest.

134. The Plaintiff's request for medical attention was ignored.

135. The Plaintiff suffered from serious medical injuries to his back, head, and hand.

136. Later, the charge against the Plaintiff was changed to a Class 4 felony, possession of a controlled substance.

137. The Illinois state police laboratory tested the pills confiscated from the Plaintiff.

138. The state police laboratory reported that the pills tested negative for a controlled substance.

139. On or about May 4, 2011, the charges were dismissed in Plaintiff's favor. Soon thereafter, Plaintiff was released from custody.

140. Upon the dismissal of the charges, Plaintiff first became aware that Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado and Kneller's search and seizure of the Plaintiff was unlawful.

141. Prior to May 5, 2011, the Plaintiff was unable to bring claims related to his March 18, 2011, arrest because he had been in custody.

142. Defendants Gruber, Conroy, and Stefanski have engaged in a pattern and practice of harassing the Plaintiff without legal justification.

143. The Joliet Police Department is aware of Defendants Gruber and Conroy's disparate treatment of racial minorities and has not required the individuals to undergo any additional training.

144. The Joliet Police Department has a policy or practice of, or is aware that their employees have a custom of, stopping individuals, arresting individuals, and charging individuals on the basis of racial profiling.

145. The Joliet Police Department is aware that their employees have a custom of using excessive force.

146. The Joliet Police Department has a policy or practice of, or is aware that their employees have a custom of stopping citizens without legal justification, searching citizens without legal justification or probable cause, arresting citizens without legal justification or probable cause, falsifying evidence, and bringing charges without legal justification.

147. The Will County Sheriff's Office has a policy or practice of or is aware that their employees have a custom of, failing to provide medical care to detainees who have requested medical attention for serious medical conditions.

148. By reason of the above-described acts and omissions of Defendants, Plaintiff sustained injuries, including but not limited to, humiliation and indignities, and suffered great mental and emotional pain and suffering all to his damage in an amount to be ascertained.

149. The aforementioned acts of Defendants were willful, wanton, malicious, oppressive and done with reckless indifference to and/or callous disregard for Plaintiff's rights and justify the awarding of exemplary and punitive damages in an amount to be ascertained according to proof at the time of trial.

150. Plaintiff was appointed an attorney to institute, prosecute, and render legal assistance to him in the within action so that he might vindicate the loss and impairment of his rights. By reason thereof, Plaintiff requests payment by Defendants of a reasonable sum for attorney's fees pursuant to 42 U.S.C. § 1988, the Equal Access to Justice Act, or any other provision set by law.

COUNT I

Plaintiff Against Defendant Gruber for UNREASONABLE SEIZURE

151. Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

152. By reason of the conduct by Defendant Gruber, Plaintiff was deprived of rights, privileges and immunities secured to him by the Fourth and/or Fourteenth Amendments to the Constitution of the United States and laws enacted thereunder.

153. The arbitrary intrusion by Defendant, into the security and privacy of Plaintiff's person was in violation of Plaintiff's Constitutional Rights and not authorized by law. The Defendant violated the Plaintiff's rights in the following manner: the seizure of Plaintiff was without any legal cause. The foregoing was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's rights.

Therefore, the Defendant is liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT II

Plaintiff Against Defendant Conroy for
UNREASONABLE SEIZURE

154. Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

155. By reason of the conduct by Defendant Conroy, Plaintiff was deprived of rights, privileges, and immunities secured to him by the Fourth and/or Fourteenth Amendments to the Constitution of the United States and laws enacted thereunder.

156. The arbitrary intrusion by Defendant Conroy, into the security and privacy of Plaintiff's person was in violation of Plaintiff's Constitutional Rights and not authorized by law. Defendant Conroy violated the Plaintiff's rights in the following manner: the seizure of Plaintiff was without legal cause. The foregoing was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's rights. Therefore, Defendant Conroy is liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT III

Plaintiff Against Defendant Gruber for
EXCESSIVE FORCE

157 Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

158. During and immediately after Plaintiff's seizure, Defendant Gruber used excessive force against Plaintiff's person.

159. There was no legal cause for Defendant Gruber to use force against Plaintiff.

160. By reason of Defendant's conduct, Plaintiff was deprived of rights, privileges, and immunities secured to him by the Fourth and/or Fourteenth Amendment to the Constitution of the United States and laws enacted thereunder.

161. The physical violence inflicted upon Plaintiff by Defendant Gruber was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's Fourth and/or Fourteenth Amendment Rights. Therefore, Defendant is liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT IV

Plaintiff against Defendants Conway, Gruber, and Stefanski for UNREASONABLE SEARCH

162. Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

163. By reason of Defendants' conduct, Plaintiff was deprived of rights, privileges, and immunities secured to him by the Fourth and/or Fourteenth Amendments of the Constitution of the United States and laws enacted thereunder.

164. The arbitrary intrusion by Defendants, into the security and privacy of Plaintiff's car was in violation of Plaintiff's Constitutional Rights and not authorized by law. Defendants violated Plaintiff's rights in the following manner: (1) searching the Plaintiff's person; (2) patting down the Plaintiff; (3) causing excessive and unnecessary property damage to Plaintiff's automobile; and (4) conducting these

actions without legal or probable cause. These acts were in violation of Plaintiff's Fourth and/or Fourteenth Amendment rights. Therefore, Defendants Conway, Gruber, and Stefanski, in their individual capacity are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT V

Plaintiff Against Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller For VIOLATION OF PLAINTIFF'S DUE PROCESS RIGHTS

165. Plaintiff incorporates and alleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place. Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller and each of them, individually and in conspiracy with one another by 1) depriving Plaintiff of a fair process by submitting false charges as contained in the criminal complaint and indictment and 2) falsely imprisoning Plaintiff beyond a preliminary hearing.

166. The acts described in the preceding paragraph were directed toward Plaintiff, were intentional and material, and therefore in violation of Plaintiff's due process rights. Therefore, the Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

167. Each of the individual Defendants' conduct was in violation of the Fourth, and/or Fourteenth Amendments to the United States Constitution and laws enacted thereunder. As a result, these

Defendants are liable to Plaintiff under, but not limited to, 42 U.S.C. §1983.

COUNT VI

Plaintiff Against Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller For CONSPIRACY TO DEPRIVE PLAINTIFF OF CONSTITUTIONAL RIGHTS

168. Plaintiff hereby incorporates and re-alleges paragraphs one (1) through one hundred fifty (150) herein as though fully alleged in this place.

169. As alleged, Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller entered into a conspiracy by engaging in joint action and entering into an agreement to harass Plaintiff by falsely arresting and bringing false criminal charges against Plaintiff.

170. Defendants' overt act of falsely arresting and bringing false criminal charges against Plaintiff in furtherance of said agreement resulted in the deprivations of rights, privileges, and immunities secured to him by the Fourth and Fourteenth Amendments to the Constitution of the United States and laws enacted thereunder.

171. The acts described constituted a wrongful seizure and a violation of Plaintiff's due process rights. Therefore, Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, Kneller and each of them, individually and in conspiracy with one another is liable for conspiracy under 42 U.S.C. § 1983.

COUNT VII

Plaintiff Against Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller For UNREASONABLE DETENTION

172. Plaintiff incorporates and alleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

173. After Plaintiff was seized and transported to a City of Joliet Police Department facility Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller failed to take any steps to cause Plaintiff to be released from police custody

174. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller knew Plaintiff was being held in police custody despite the fact that there was no probable cause to arrest him, or to continue detaining him in police custody.

175. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller had the ability and duty to cause Plaintiff to be released from police custody due to the lack of probable cause supporting his arrest and continued detention in police custody.

176. Defendants' arbitrary and baseless detention of Plaintiff was in violation of Plaintiff's Constitutional Rights and not authorized by law. The foregoing was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's rights. Therefore, Defendants are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT VIII

Plaintiff Against Defendant Cammack For UNREASONABLE DETENTION

177. Plaintiff incorporates and alleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

178. After Plaintiff was seized and transported to a City of Joliet Police Department facility Defendant Cammack failed to take any steps to cause Plaintiff to be released from police custody.

179. Defendant Cammack knew Plaintiff was being held in police custody despite the fact that there was no probable cause to continue detaining him in police custody.

180. Defendants Cammack had the ability and duty to cause Plaintiff to be released from police custody due to the lack of probable cause supporting his continued detention in police custody.

181. Defendant's arbitrary and baseless detention of Plaintiff was in violation of Plaintiff's Constitutional Rights and not authorized by law. The foregoing was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's rights. Therefore, Defendant is liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT IX

Plaintiff Against Defendants Conroy, Bandy, German, Stefanski, Rosado, and Kneller For FAILURE TO INTERVENE

182. Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

183. Defendant Gruber used excessive force against Plaintiff's person.

184. There was no legal cause for Defendant Gruber to use force against Plaintiff.

185. Defendants Conroy, Bandy, German, Stefanski, Rosado, and Kneller had the ability and opportunity to stop Defendant Gruber from using excessive force against Plaintiff but failed to do so.

186. By reason of these acts and/or omissions by Defendants Conroy, Bandy, German, Stefanski, Rosado, and Kneller, Plaintiff was deprived of rights, privileges, and immunities secured to him by the Fourth and/or Fourteenth Amendment to the Constitution of the United States and laws enacted thereunder.

187. The physical violence inflicted upon Plaintiff by Defendant Gruber was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's Fourth Amendment Rights. Therefore, Defendants Conroy, Bandy, German, Stefanski, Rosado, and Kneller are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT X

Plaintiff Against Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller, For UNEQUAL PROTECTION OF THE LAWS

188. Plaintiff hereby incorporates and re-alleges paragraphs one (1) through one hundred fifty (150) herein as though fully alleged at this place.

189. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller are employees of the Joliet Police Department and they acted with the intent to deprive Plaintiff of equal protection of the laws guaranteed to Plaintiff under the Constitution of the United States of America when they searched Plaintiff's vehicle without legal cause, arrested Plaintiff without legal cause, and initiated prosecution without legal cause.

190. There was no probable cause to search, arrest, charge, or detain the Plaintiff.

191. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller acted to discriminate against Plaintiff because of his race in the administration and enforcement of the laws and in violation of the Fourteenth Amendment to the Constitution.

192. Therefore, Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller are liable to Plaintiff for the unequal protection of the laws under 42 U.S.C. § 1983.

COUNT XI

Plaintiff Against Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller For SELECTIVE PROSECUTION

193. Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

194. By reason of the conduct of Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller, Plaintiff was deprived of rights, privileges, and immunities secured to him by the due process clause as contained in the Fifth and/or Fourteenth Amendments to the United States Constitution.

195. Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller selectively arrested and caused Plaintiff to be prosecuted in violation of his due process rights because Defendants failed to bring charges against Caucasian lawbreakers who were similarly situated in all respects.

196. The acts were intentional and material, and therefore in violation of Plaintiff's due process rights. Therefore, Defendants Gruber, Conroy, Bandy, German, Stefanski, Rosado, and Kneller are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT XII

Plaintiff Against The City of Joliet For MONELL LIABILITY

197. Plaintiff incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

198. During all relevant times, the City of Joliet knowingly, and with willful and deliberate indifference to the Constitutional rights of citizens, maintained and permitted a widespread custom and practice of permitting the occurrence of the types of wrongs set forth in the following paragraph.

199. During all relevant times, the City of Joliet maintained a widespread custom and practice of its police officers stopping individuals based on racial profiling, harassing particular individuals without legal cause, searching citizens' property without legal cause, falsifying evidence, detaining citizens without cause, initiating arrest without legal cause, and initiating prosecution without legal cause.

200. Further, during all relevant times, the City of Joliet failed to train its police officers and/or detectives to: engage only in reasonable search and seizure; use proper, rather than excessive, force; not falsify evidence: not detain citizens without legal cause; refrain from racial profiling; and not initiate prosecution without legal cause.

201. Plaintiff alleges that these customs, policies, and training, described above, were the moving force behind the violations of the Plaintiff's rights. During all relevant times, the law required that citizens only be subject to reasonable search and seizure and not be subject to excessive force, false arrest, false charges, or malicious prosecution, or unequal treatment under the law. Based upon the principles set forth in *Monell v. New York City Department of Social Services*, 436 U.S. 658, (1978), the City of Joliet is liable for all the harm done to Plaintiff as set forth above.

202. As a result of the unlawful search and seizure, excessive force, failure to intervene, malicious prosecution, false arrest, unlawful detention, due process violation, and unequal treatment under the law, the Plaintiff was injured in all the ways set forth above, and as a result, the City of Joliet is liable under 42 U.S.C. §1983.

COUNT XIII

Plaintiff Against Unknown Defendants For FAILURE TO PROVIDE MEDICAL CARE

203. Plaintiff hereby incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

204. Plaintiff was arrested and transported to the jail at the Will County Adult Detention Center.

205. That at the aforesaid place and time the Unknown Defendants were acting within the scope of their employment, as employees of the Will County Sheriff's Office.

206. Unknown Defendants knew, from being informed by Plaintiff, or should have known that Plaintiff had a serious medical need and was in need

of immediate medical care and/or medication. Further, through the Defendants' willful and wanton conduct, Defendants failed to take reasonable action to summon medical care.

207. As a result of the foregoing, Plaintiff has sustained injuries including, but not limited to, physical, mental, and emotional pain and suffering all to his detriment.

208. The lack of medical care or attention inflicted upon Plaintiff by Defendants was unnecessary, unreasonable, and excessive, and was therefore in violation of Plaintiff's Eighth Amendment Rights. Therefore, Defendants are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT XIV

Plaintiff Against Will County For MONELL LIABILITY

209. Plaintiff incorporates and realleges paragraphs one (1) through one hundred fifty (150) herein as though fully set forth at this place.

210. During all relevant times, Will County knowingly, and with willful and deliberate indifference to the Constitutional rights of citizens, maintained and permitted a widespread custom and practice of permitting the occurrence of the types of wrongs set forth in the following paragraph.

211. During all relevant times, Will County maintained and permitted a widespread custom and practice of its employees being deliberately indifferent to the serious medical needs of the detainees of the Will County Adult Detention Facility.

212. Further, during all relevant times, Will County failed to train its police officers and/or detectives to properly assess a detainee's serious medical need or to seek medical attention for a detainee's serious medical need.

213. Plaintiff alleges that these customs, policies, and failure to train, described above, were the moving force behind the violations of the Plaintiff's rights. During all relevant times, the law required that citizens be subject to due process of law and not be subject to cruel or unusual punishment. Based upon the principles set forth in *Monell v. New York City Department of Social Services*, 436 U.S. 658, (1978), Will County is liable for all the harm done to Plaintiff as set forth above.

COUNT XV

Plaintiff Against Will County For INDEMNIFICATION

214. Plaintiff hereby incorporates and realleges Paragraphs one (1) through one hundred fifty (150) heretofore as though fully set forth at this place.

215. Pursuant to 745 ILCS 10/9 — 102, 55 ILCS 5/4 — 6003, and 55 ILCS 5/5 — 1106, Will County is empowered and directed to pay any judgment for compensatory damages (and any associated attorneys' fees and costs) for which an independently elected Will County officer, such as the Will County Sheriff, and its deputies, including Unknown Defendants, acting within the scope of his/her employment, is found liable.

216. The acts and/or omissions of Unknown Defendants and each of them were committed within the scope of their employment.

217. In the event that a judgment for compensatory damages is entered against Unknown Defendants and/or any of them, Will County must pay the judgment as well as the associated attorneys' fees and costs.

COUNT XVI

Plaintiff Against City of Joliet
INDEMNIFICATION

218. Plaintiff hereby incorporates and realleges Paragraphs one (1) through one hundred fifty (150) heretofore as though fully set forth at this place.

219. Pursuant to 745 ILCS 10/9 — 102, 55 ILCS 5/4 — 6003, and 55 ILCS 5/5 — 1106, the City of Joliet is empowered and directed to pay any judgment for compensatory damages (and any associated attorneys' fees and costs) for which an employee police officer, acting within the scope of his/her employment, is found liable.

220. The acts and/or omissions of Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller and each of them were committed within the scope of their employment.

221. In the event that a judgment for compensatory damages is entered against Defendants Gruber, Conroy, Cammack, Bandy, German, Stefanski, Rosado, and Kneller and/or any of them, the City of Joliet must pay the judgment as well as the associated attorneys' fees and costs.

WHEREFORE, the Plaintiff, by and through his attorneys, Stanley B. Eisenhammer, John D. Di John Jr., and Pamela E. Swanson, requests judgment as follows against the Defendants, and each of them:

1. That the Defendants be required to pay Plaintiff's general damages, including emotional distress, in a sum to be ascertained;
2. That the Defendants be required to pay Plaintiff's special damages;
3. That the Defendants other than the City of Joliet be required to pay Plaintiff's attorneys fees pursuant to 42 U.S.C. § 1988, the Equal Access to Justice Act or any other applicable provision;
4. That the Defendants other than the City of Joliet be required to pay punitive and exemplary damages in a sum to be ascertained;
5. That the Defendants be required to pay Plaintiff's costs of the suit herein incurred; and
6. That Plaintiff have such other and further relief as this Court may deem just and proper.

BY: /s/ Stanley B. Eisenhammer
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
Attorney for Plaintiff
3030 Salt Creek Lane, Suite 202
Arlington Heights, IL 60005
847-670-9000
seisenhammer@hlerk.com

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

BY: /s/ Stanley B. Eisenhammer
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
Attorney for Plaintiff
3030 Salt Creek Lane, Suite 202
Arlington Heights, IL 60005
847-670-9000
seisenhammer@hlerk.com

JOLIET, ILLINOIS POLICE DEPARTMENT	CONTINUATION/FOLLOW-UP REPORT ◄ CHECK ONE ► [X]	PG # 1	1. C.R. # 11-0318004686	
2. F/FOLLOW-UP DATE OF THIS REPORT: 03/18/11	DATE OF ORIGINAL REPORT: 03/18/11	3. OFFENSE AS VERIFIED: PCS W/ INTENT	4. OFFENSE AFTER INVESTIGATION: N/A	5.CODE: N/A
6. VICTIM'S NAME: STATE OF ILLINOIS	7. LOCATION OF OFFENSE: MILES AND ELMWOOD		8. RELATED O.T.(S): N/A	
9. NARRATIVE - DO NOT REPEAT RESULTS OF PRELIMINARY INVESTIGATION. LIST ADDITIONAL PERSONS OR PROPERTY USING FORMAT OF BOXES 27, 28, OR 48.				

OFFICER T. GRUBER #261 ON 03/18/11 @ 0315 HRS PRIORITY # 1

CRITICAL INFORMATION:

ISSUED TO: FAINT, JEFFERY I., M/B, [redacted]

TICKET #2871629 FAILURE TO SIGNAL 625 ILCS 5/11-804

TICKET #2871630 IMPROPER USE OF REGISTRATION 625 ILCS 5/3-703

ISSUED TO: MANUEL, ELIJAH M/B, [redacted]

TICKET #2871631 FAILURE TO WEAR SEAT BELT 625 ILCS 5/12-603.1

NARRATIVE:

While on patrol, Officer Conroy #271 and I viewed a black Dodge Charger fail to use its turn signal while it was turning EB Elmwood from traveling SB Winston. Officers also ran the registration plates via LEADS resulting the in the license plate registering to a 2005 Pontiac 4dr. A traffic stop was then initiated at Miles and Elmwood. It should be noted upon activating our emergency lights and siren, both officer Conroy and I could see the front seat passenger begin to moving quickly towards the center console. It should be noted he was reaching towards the arm rest area of the vehicle. As I approached the vehicle and I made contact with the passenger A/MANUEL, he acted as if he was sleeping. It was at that time I knocked on the window and he "woke up" startled and began to roll down the window. It was at that time I could smell the scent of burnt cannabis emitting from inside of the vehicle. A/Manuel was then asked to step out of the vehicle at which time

EXHIBIT 1

10. CASE STATUS OF FOLLOW-UP REPORTS				
a. [X] CLEARED BY ARREST / [ ] EXCEPTIONAL CLEARANCE	[ ] WARRANT ISSUED / [ ] UNFOUNDED	[ ] ADMINISTRATIVELY CLOSED / [X] CONTINUE INVESTIGATION BY	[ ] REFER TO OTHER AGENCY	
11. OFFICER ASSIGNED / STAR #	12. SIGNATURE OF REPORTING OFFICER	13. SUPERVISOR AT SCENE		
261, 271, 250, 214	[redacted] 261	[redacted] 03		
14. COPY OF REPORT TO	15. [redacted]	16. DUTY SUPERVISOR		

JOLIET, ILLINOIS POLICE DEPARTMENT	CONTINUATION/FOLLOW UP REPORT ← CHECK ONE → [X]	PG.# 2	I. C.R. # 11-0318004686	
1. IF FOLLOW UP DATE OF THIS REPORT	DATE OF ORIGINAL REPORT	3. OFFENSE AS VERIFIED	4. OFFENSE AFTER INVESTIGATION	5. CODE
03/18/11	03/18/11	PCS W/ INTENT	N/A	N/A
6. VICTIM'S NAME	7. LOCATION OF OFFENSE		8. RELATED O.T.(S)	
STATE OF ILLINOIS	MILES AND ELMWOOD		N/A	

9. NARRATIVE: DO NOT REPEAT RESULTS OF PRELIMINARY INVESTIGATION. LIST ADDITIONAL PERSONS OR PROPERTY USING FORMAT OF BOXES 2, 7, OR 48.

I then began a pat down search. As I was pat searching the left front pocket his sweat pants, I could feel a bulge protruding from his pocket. It was at that time that A/Manuel began to run away from officers. It should be noted he was quickly apprehended a short distance approximately five feet away from the vehicle. He was then placed into custody for obstructing a police officer. A search incidental to arrest revealed a clear plastic bag containing 16 pink pills in the shape of the United States stamped with "USA" on the pills in his left front pant pocket. From my training and experience, I knew the pills to be ecstasy. It should be noted that on the scene the driver of the vehicle, O/Faint was issued two traffic citations. He was then released on scene. The vehicle was then towed by Pen's and A/Manuel was then transported to JPD for booking. It should be noted he was read his lights verbatim via the advise of rights sheet at which time he did understand his rights but he did not wish to waive his rights. The 16 pink suspected ecstasy pills did test positive for ecstasy by Evidence Technician Cammack #285 and did weigh 7.3 grams. They were then entered into Evidence. A Class X felony approval was also given by ASA Walsh.

A/Manuel was then transported to WCADF . TG #291 [redacted]

K. Steele #312 on 03/18/11 @ 0421 hrs

0. CASE STATUS OF FOLLOW-UP REPORTS				
[Y] CLEARED BY ARREST / EXCEPTIONAL CLEARANCE	[ ] WARRANT ISSUED / UNFOUNDED	[ ] ADMINISTRATIVELY CLOSED / CONTINUE INVESTIGATION BY	[ ] REFER TO OTHER AGENCY	
11. OFFICER ASSIGNED / STAR #	12. SIGNATURE OF REPORTING OFFICER		13. SUPERVISOR AT SCENE	
261, 271, 851, 284	[redacted] 261		[redacted] 82	
14. COPY OF REPORT TO	15. FIELD [redacted]	274	16. DUTY SUPERVISOR	

JOLIET, ILLINOIS POLICE DEPARTMENT	CONTINUATION/FOLLOW-UP REPORT ← CHECK ONE → [X]	PG # 1	1. C.R. # 11-031800468	
2. F/U FOLLOW-UP DATE OF THIS REPORT 03/18/11	DATE OF ORIGINAL REPORT 03/18/11	3. OFFENSE AS VERIFIED PCS	4. OFFENSE AFTER INVESTIGATION N/A	I CODE N/A
5. VICTIM'S NAME STATE OF ILLINOIS	7. LOCATION OF OFFENSE ELWOOD AT MILES		8. RELATED D.T.(S) N/A	
9. NARRATIVE - DO NOT REPEAT RESULTS OF PRELIMINARY INVESTIGATION. LIST ADDITIONAL PERSONS OR PROPERTY USING FORMAT OF BOXES 27, 28, OR 49.				

EVIDENCE TECHNICIAN S. CAMMACK #285 ON 03/18/11 @ 0544 HRS PRIORITY # 1

CRITICAL INFORMATION:

NONE

NARRATIVE:

E/T while in the evidence section of the JPD, was met by Officer Gruber #261 and was given a clear plastic baggie which contained numerous pink colored rock like substance individually packaged in clear plastic. E/T weighed the entire package and found it to weigh 7.3 grams. One of the pink rock like substance was tested and found to be to be positive for the probable presence of ecstasy. E/T did then return all the items to Officer Gruber to place into Evidence . SC #285

K. Steele #812 on 03/18/11 @ 0640 hrs

8. CASE STATUS OF FOLLOW-UP REPORTS [ ] CLEARED BY ARREST [ ] EXCEPTIONAL CLEARANCE	[ ] WARRANT ISSUED [ ] UNFOUNDED	[ ] ADMINISTRATIVELY CLOSED [ ] CONTINUE INVESTIGATION BY	[ ] REFER TO OTHER AGENCY	
OFFICER ASSIGNED CAMMACK # 285	STAR #	12. [redacted]	13. SUPERVISOR AT SCENE N/A	
14. COPY OF REPORT TO	15 FIELD SUPERVISOR [redacted]		16. DUTY SUPERVISOR	

IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

[Filed 02/07/14]

No. 2011 CF 546

PEOPLE OF THE STATE OF ILLINOIS

Plaintiff,

vs.

ELIJAH MANUEL

Defendant.

GRAND JURY MINUTES

Now come the People of the State of Illinois by JAMES W. GLASGOW, State's Attorney of Will County, Illinois, through Assistant State's Attorney, Erika Sarich, and represents that the following transcripts are those portions of grand jury minutes containing relevant testimony of Officer Gruber, Joliet Police Department, persons whom the State intends to call as a witness at the hearing or trial.

JAMES W. GLASGOW
State's Attorney
Will County, Illinois
Erika Sarich
Erika Sarich
Assistant State's Attorney

[1] IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

[Filed 02/07/14]

No. 2011 CF 546

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

vs.

ELIJAH MANUEL,

Defendant.

REPORT OF PROCEEDINGS at the hearing of the above-entitled cause before the WILL COUNTY GRAND JURY, on the 30th day of March, A.D., 2011, at the Will County Court Annex Building, 57 North Ottawa Street, Joliet, Illinois.

APPEARANCES:

HONORABLE JAMES W. GLASGOW,

WILL COUNTY STATE'S ATTORNEY

BY: MR. MICHAEL CASSON, Assistant State's Attorney

Appeared on behalf of the People of the State of Illinois.

JAMES J. STRAMAGLIA, CSR, RPR
CSR License No. 084-002842
Will County Courthouse
Joliet, IL 60432

[2] (Witness duly sworn.)

(One count Bill of Indictment read to the grand jury.)

TERRENCE GRUBER, called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CASSON:

Q Officer, please introduce yourself to the grand jury.

A Office T.J. Gruber.

Q Please spell your last name.

A G-r-u-b-e-r.

Q What department are you with, sir?

A Joliet police.

Q Do you have knowledge of this event?

A Yes, I do.

Q Isn't it true that on or about March 18, 2011, police performed a traffic stop on a vehicle at Miles and Elmwood in Joliet for failure to signal a turn and improper use of registration?

A Yes.

Q Police observed the front seat passenger, later identified as the defendant, making furtive movements [3] towards the center console as the officer approached the vehicle?

A Yes.

Q As the officer made contact with the defendant, he pretended to be asleep?

A Yes, he did.

Q The defendant eventually awoke, rolled down the window, at which time the officer immediately detected an odor of burnt cannabis emanating from the vehicle?

A Yes.

Q The defendant exited the vehicle and attempted to flee but was quickly taken into custody?

A Correct.

Q A search of the defendant's person incident to arrest revealed 16 pink pills stamped with the letters U.S.A. in his left pants pocket?

A Correct.

Q The pills field tested positive for methylenedioxymethamphetamine, also known as ecstasy, which was 7.3 grams?

A Correct.

MR. CASSON: Any questions?

(No response.)

[4] (which is all the testimony had in the above-entitled cause this date.)

[5] I hereby certify that I reported stenographically the proceedings had at the hearing in the above-entitled cause, and that the above and foregoing is a true, correct, and complete transcript of my stenographic notes so taken at the time and place hereinbefore set forth.

Date: 4-4-11

[redacted]

JAMES J. STRAMAGLIA, CSR, RPR
Court Reporter, 12th Judicial
Circuit of Illinois

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

[Filed 02/12/14]

Case No. 13 C 3022

ELIJAH MANUEL,

Plaintiff,

v.

CITY OF JOLIET, a municipal corporation, et al.,

Defendants.

MEMORANDUM ORDER

Elijah Manuel ("Manuel"), who originally launched this action with a self-prepared detailed narrative submitted under the heading "Complaint Under the Civil Rights Act, Title 42 Section 1983 U.S. Code," is now represented by able counsel designated by this Court to serve him pro bono publico. Now the First Amended Complaint ("FAC") recently prepared by counsel on Manuel's behalf has been targeted by two Fed. R. Civ. P ("Rule") 12(b)(6) motions to dismiss, and late last week Manuel's counsel filed what they label as "Plaintiff's Modified Response in Opposition to Defendants' 12(b)(6) Motion To Dismiss." Because the parties have met head-on in those submissions, the motions are ripe for decision.

Both Rule 12(b)(6) motions focus primarily on a statute-of-limitations bar, pointing (1) to Section 1983's adoption of the two-year statute of limitations

for Illinois-based personal injury claims and (2) to the fact that Manuel's original pro se Complaint was brought more than two years after the occurrences that constitute the gravamen of Manuel's Section 1983 claims. Because this Court's earlier oral ruling rejected the other contentions advanced by Manuel's counsel, the most recent submission on Manuel's behalf urges denial of the motions only "because plaintiff has a non-time-barred Fourth Amendment or Due Process claim" (Response at 2). And when the Response memorandum gets down to the precise issues, it focuses solely on the contention that the "Plaintiff should have an actionable Section 1983 claim for malicious prosecution through the Fourth Amendment" (*id.* at 4).

On that score Manuel's counsel are totally candid. Their Response at 5 states accurately:

> The Seventh and Eighth Circuits stand alone in deciding that malicious prosecution claims are not actionable as a Fourth Amendment Section 1983 claim. *Newsome v. McCabe,* 256 F. 3d 747, 750 (7th Cir. 2001); *Kurtz v. City of Shrewsbury,* 245 F. 3d 753, 758 (8th Cir. 2001).

As for our Court of Appeals' stance on the subject, the Response goes on to state (also accurately) that the *Newsome* case "holds that Section 1983 malicious prosecution claims are only cognizable as a substantive due process claim if state law does not provide an adequate remedy" – and to close the analytical circle, our Court of Appeals has expressly held that Illinois law *does* provide such a remedy.

What Manuel's counsel must argue then – and they do with vigor – is that *Newsome* should be revisited

and "rejected in the present case." That invitation to a District Judge to override the studied adherence by our Court of Appeals to a position that it knows to be a lonely one (see Judge Richard Posner's recent opinion for the panel in *Julian v. Hanna*, 732 F. 3d 842, 845-46 (7th Cir. 2013)) has put this Court in mind of an even more recent opinion written by Judge Posner that affirmed this Court's decision in a complex case *(Inland Mortgage Capital Corp. v. Chivas Retail Partners*, No. 12-3648, 2014 WL 310355 (7th Cir. Jan. 29)) and concluded in this fashion (*id.* at *3):

> What a topsy-turvy world the defense rightly rejected by the district court would create!

This Court likewise rejects the invitation by Manuel's counsel to create still another topsy-turvy world – if a change from *Newsome* and its progeny is to be made, it must be left to our Court of Appeals to do so.

Accordingly both Rule 12(b)(6) motions are granted. And (1) because the limitations bar erected by Section 1983 cannot be overcome by a nonviable Illinois-based federal malicious prosecution claim and (2) because the most recent response from Manuel's counsel has not suggested any other tenable basis for the survival of his claims, this action is dismissed as well.

/s/ Milton T. Shadur
Milton T. Shadur
Senior United States District Judge

Date: February 12, 2014

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with
Fed. R. App. P. 32.1

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
CHICAGO, ILLINOIS 60604

No. 14-1581

ELIJAH MANUEL,
Plaintiff-Appellant,

v.

CITY OF JOLIET, *et al.*,
Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division
No. 13 C 3022, Milton I. Shadur, *Judge*.

Argued December 16, 2014
Decided December 28, 2015

Before

DIANE P. WOOD, *Chief Judge*
ILANA DIAMOND ROVNER, *Circuit Judge*
JOHN DANIEL TINDER, *Circuit Judge*

ORDER

Elijah Manuel appeals the dismissal of his complaint under 42 U.S.C. § 1983 alleging that the City of Joliet and several of its police officers maliciously prosecuted him when they falsified the results of drug tests and then arrested him for possession with intent to distribute ecstasy. The district court dismissed his claim as foreclosed by *Newsome v. McCabe*, 256 F.3d 747, 750–52 (7th Cir. 2001), because Illinois law already provided an adequate remedy for malicious prosecution. Manuel asks this court to reconsider *Newsome* but offers no compelling reason to do so. We affirm.

Manuel alleged the following in connection with his arrest on March 18, 2011 for possession with intent to distribute ecstasy. On that day he was a passenger in his car being driven by his brother when they were stopped for failing to signal. A police officer detected an odor of burnt cannabis from inside the car. Without warning, the officer flung open the passenger's door and dragged Manuel out. The officer pushed Manuel to the ground, handcuffed him, and then punched and kicked him. The officer then patted down Manuel, and in one pocket found a bottle of pills. The pills were then tested by officers who had arrived at the scene, and these officers falsified the results to show that the pills were ecstasy. Based on these results, Manuel was arrested. In grand jury proceedings on March 31, the police continued to lie about the test results.

But according to a lab report of April 1, 2011, that Manuel submitted with his complaint, the pills were not ecstasy. Yet Manuel was arraigned on April 8, 2011, and not for more than a month—until May 4, 2011—did the Assistant State's Attorney seek dismissal of the charges. Manuel was released the next day. Because of his incarceration, Manuel missed

work and his college classes, forcing him to drop courses he already paid for.

On April 10, 2013, Manuel sued the City of Joliet and various City of Joliet police officers alleging malicious prosecution because of the falsified drug tests and other civil rights claims that stemmed from his arrest (unreasonable search and seizure, excessive force, violation of due process rights, conspiracy to deprive constitutional rights, unreasonable detention, failure to intervene, and denial of equal protection of laws).

The court dismissed most of the § 1983 claims as time-barred because they fell outside the two-year statute of limitations. As for the malicious-prosecution claim—which was not time-barred because the statute of limitations did not begin tolling until May 4, 2011, when the underlying proceedings were terminated in Manuel's favor—the court treated it as barred under *Newsome* because Illinois law provided an adequate remedy.

On appeal Manuel challenges only the dismissal of his malicious-prosecution claim and argues that the claim, as one in which the police misrepresented evidence, fits into an area of law that *Newsome* did not foreclose. He invokes *Johnson v. Saville*, 576 F.3d 656, 663 (7th Cir. 2009), in which we stated that "*Newsome* left open the possibility of a Fourth Amendment claim against officers who misrepresent evidence to prosecutors."

Newsome held that federal claims of malicious prosecution are founded on the right to due process, not the Fourth Amendment, and thus there is no malicious prosecution claim under federal law if, as here, state law provides a similar cause of action.

Newsome, 256 F.3d at 750–51; *see Julian v. Hanna*, 732 F.3d 842, 845–46 (7th Cir. 2013). *Newsome* did not preclude Fourth Amendment claims generally, but we have cautioned that "there is nothing but confusion gained by calling [a] legal theory [brought under the Fourth or any other amendment] 'malicious prosecution.'" *Parish v. City of Chicago*, 594 F.3d 551, 554 (7th Cir. 2009) (quoting *Newsome*, 256 F.3d at 751) (internal quotation omitted); *see also McCullach v. Gadert*, 344 F.3d 655, 659 (7th Cir. 2003) (recognizing a Fourth Amendment wrongful-arrest claim against an officer who allegedly gave false information in an incident report and at a preliminary hearing). As the district court noted, any Fourth Amendment claim that Manuel might bring is time-barred. Fourth Amendment claims are typically "limited up to the point of arraignment," after which it becomes a malicious prosecution claim. *Bielanski v. County of Kane*, 550 F.3d 632, 638 (7th Cir. 2008). Thus if Manuel has a Fourth Amendment claim not barred by *Newsome*, it would have stemmed from his arrest on March 18, 2011, which he would have had to challenge within two years, *see* 735 ILCS 5/13-202, but he did not sue until April 10, 2013. And in any event, Manuel has no Fourth Amendment right to be free from groundless prosecution. *Bielanski*, 550 F.3d at 638; *Ray v. City of Chicago*, 629 F.3d 660, 664 (7th Cir. 2011).

Next Manuel argues that we should reconsider our holding in *Newsome* and recognize a federal claim for malicious prosecution under the Fourth Amendment regardless of the available state remedy. By his count, ten other circuits have recognized federal malicious-prosecution claims under the Fourth Amendment—assuming that the plaintiff has been seized in the course of the malicious prosecution. *See Julian v. Hanna*, 732 F.3d 842, 846 (7th Cir. 2013) (collecting

cases); *Hernandez-Cuevas v. Taylor*, 723 F.3d 91, 98–99 (1st Cir. 2013) ("there is now broad consensus among the circuits that the Fourth Amendment right to be free from seizure but upon probable cause extends through the pretrial period.")

Manuel does not provide a compelling reason to overrule our precedent. *See United States v. Reyes-Hernandez*, 624 F.3d 405, 412 (7th Cir. 2010) (setting forth standard for overturning circuit precedent); *United States v. Corner*, 598 F.3d 411, 414 (7th Cir. 2010). As we stated in our most recent endorsement of *Newsome's* rationale: "When, after the arrest or seizure, a person is not let go when he should be, the Fourth Amendment gives way to the due process clause as a basis for challenging his detention." *Llovet*, 761 F.3d at 764. While Manuel's counsel advanced a strong argument, given the position we have consistently taken in upholding *Newsome*, *see Llovet v. City of Chicago*, 761 F.3d 759, 760 (7th Cir. 2014); *Ray*, 629 F.3d at 664; *Parish*, 594 F.3d at 554, Manuel's argument is better left for the Supreme Court.

Manuel tries to distinguish *Llovet* on grounds that he was arrested without probable cause and incarcerated for seven weeks. Although *Llovet* is largely about the theory of "continuing seizures" and thus distinguishable from Manuel's facts, we said in that case that "once detention by reason of arrest turns into detention by reason of arraignment...the Fourth Amendment falls out of the picture and the detainee's claim that the detention is improper becomes a claim of malicious prosecution violative of due process." 761 F.3d at 763. Only if state law fails to provide an adequate remedy can a plaintiff pursue a federal due process claim for malicious prosecution, *id.* at 764; *cf. Julian*, 732 F.3d at 846 (Indiana did not have an

adequate remedy for malicious-prosecution claim), and Illinois has an adequate remedy. *Ray*, 629 F.3d at 664.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60609

No. 14-1581

ELIJAH MANUEL,
Plaintiff-Appellant,

v.

CITY OF JOLIET, *et al.*,
Defendants-Appellees.

Originating Case Information:
District Court No: 1:13-cv-03022
Northern District of Illinois, Eastern Division
District Judge Milton I. Shadur

January 28, 2015

Before: DIANE P. WOOD, *Chief Judge*
ILANA DIAMOND ROVNER, *Circuit Judge*
JOHN DANIEL TINDER, *Circuit Judge*

FINAL JUDGMENT

The judgment of the District Court is AFFIRMED, with costs, in accordance with the decision of this court entered on this date.